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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE254; Special Conditions No. 23–194–SC]

Special Conditions: Aviation Technology Group (ATG), Inc.; Javelin Model 100 Series Airplane; Acrobatic Spins

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Aviation Technology Group (ATG) Javelin Model 100 Series airplane. This airplane will have a novel or unusual design feature(s) associated with acrobatic spin recovery requirements. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* May 29, 2007.

FOR FURTHER INFORMATION CONTACT: Lowell Foster, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–111, 901 Locust, Room 301, Kansas City, Missouri, 816–329–4125, fax 816–329–4090.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 2005, Aviation Technology Group (ATG); 8001 South InterPort Boulevard, Suite 310; Englewood, Colorado 80112–5951, applied for a type certificate for their new Model 100 airplane. ATG seeks certification of the Javelin in both utility and acrobatic categories. The preliminary design includes the following features:

- Two-place, tandem configuration.
- Maximum takeoff weight of approximately 6,900 pounds.
- Design cruise speed of 500 knots calibrated airspeed.
- Two Williams FJ33–4A–18M turbofan engines with dual channel FADEC controls.
- Major airframe components constructed of carbon fiber composite materials.
- Hydraulically boosted flight control system with floor-mounted control sticks.
- Integrated avionics including electronic displays, autopilot, and flight management system.

Title 14 CFR part 23, § 23.221 contains spin requirements for normal, utility, and acrobatic category airplanes. When part 3 of the Civil Air Regulations was recodified in 1965 as 14 CFR part 23, spin requirements for acrobatic category airplanes were presented in § 23.221(c). Since 1965, the spin requirements in § 23.221(c) have been amended three times.

The original version of § 23.221(c) required an acrobatic category airplane to perform spins of at least six turns and recover without exceeding an airspeed limit or positive load factor limit. Spins were required for flaps-up configuration and flaps-down configuration. In addition, the airplane could not enter an uncontrollable spin with any use of the controls.

Amendment 23–7 revised the presentation of the acrobatic category spin requirements and revised the minimum turn requirement to six turns or three seconds, whichever takes longer. Amendment 23–42 revised § 23.221(c)(3) and clarified the term "controls" in the previous version of the rule by identifying flight controls and engine controls. It also clarified that the use of the controls could be at spin entry or during the spin. Neither of these two amendments changed the basic acrobatic category spin requirements.

In July 1994, the FAA proposed changes to the flight airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. The proposals arose from the joint effort of the FAA and the European Joint Aviation Authorities (JAA) to harmonize 14 CFR regulations and the Joint Aviation Requirements (JAR). The proposed changes were intended to provide nearly uniform flight airworthiness standards for airplanes certificated in the United States under 14 CFR part 23 and in the JAA countries under JAR 23.

Proposed changes to the introductory paragraph of § 23.221(c) required acrobatic category airplanes to meet the one-turn spin requirements of § 23.221(a) as well as the emergency egress requirements of § 23.807, and to meet the spin requirements of §§ 23.221(c)(1) through (4) in each configuration approved for spins. The addition of normal category spin requirements was necessary because acrobatic category airplanes should have sufficient controllability to recover from the developing one-turn spin under the same conditions as normal category airplanes. The configuration requirement was added to recognize the common practice of approving intentional spins only for a specific configuration (e.g, gear and flaps up). The proposed changes were incorporated into the rule by Amendment 23–50.

The FAA did not intend to approve an acrobatic category airplane that met only the normal category spin requirements. The assumption has always been that an inadvertent spin could result during the performance of a variety of acrobatic maneuvers.

Type Certification Basis

Under the provisions of 14 CFR part 21, § 21.17, ATG must show that the Model 100 meets the applicable provisions of part 23, as amended by Amendment 23–1 through 23–55 thereto. If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 23) do not contain adequate or appropriate safety standards for the ATG Model 100 series because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual

design feature, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

The ATG Model 100 will incorporate the following novel or unusual design features: High thrust-to-weight ratio, military training jet configuration with a higher fuselage mass compared to typical part 23 acrobatic airplanes.

Discussion

Title 14 CFR part 23, § 23.221(c), as amended by Amendment 23–50, presents acrobatic category airplane spin requirements. As the rule is currently written, the acrobatic category airplane must comply with normal category spin requirements, acrobatic category emergency egress requirements in § 23.807, and acrobatic spin requirements for each configuration requested for spin approval.

ATG proposes to prohibit intentional spins and requests that no configuration be approved for spins. This proposal appears to allow an acrobatic category airplane that meets only normal category spin requirements. This proposal is unacceptable since the FAA has always maintained that an acrobatic category airplane must comply with acrobatic category spin requirements.

Discussion of Comments

A notice of proposed special conditions No. 23–06–06–SC for the Aviation Technology Group (ATG), Inc.; Javelin Model 100 series airplanes was published in the **Federal Register** on February 1, 2007 (72 FR 4661). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Aviation Technology Group (ATG), Inc.; Javelin Model 100 Series airplane. Should Aviation Technology Group apply at a later date for a change to the type certificate to include another model on the same type certificate incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

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

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

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

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704; 14 CFR 21.16 and 21.17 and 14 CFR 11.38 and 11.19.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the ATG Model 100 airplanes.

Title 14 CFR part 23, § 23.221(c) as amended by Amendment 23–50, presents acrobatic category airplane spin requirements. As the rule is currently written, the acrobatic category airplane must comply with normal category spin requirements, acrobatic category emergency egress requirements in § 23.807, and acrobatic spin requirements for each configuration requested for spin approval.

ATG proposes to prohibit intentional spins and requests that no configuration be approved for spins. This proposal leads to an acrobatic category airplane that meets only normal category spin requirements. This proposal is unacceptable since the FAA has always maintained that an acrobatic category airplane must comply with acrobatic category spin requirements despite the wording in the current rule. The rule's history coupled with preamble information for Amendment 23–50 reveals that the rule was changed to add the normal category spin requirements and to accommodate an applicant's desire to comply with the acrobatic spin requirements for at least one configuration, but not necessarily all configurations.

Since the wording of the current rule combined with ATG's proposal does not provide the level of safety envisioned for an acrobatic category airplane, the FAA adopts the following special condition under the authority of 14 CFR part 21, § 21.16 to replace § 23.221(c) in its entirety:

SC 23.221 Spinning.

(c) *Acrobatic category airplanes.* An acrobatic category airplane must meet the spin requirements of paragraph (a) of this section and § 23.807(b)(6). In addition, the following requirements must be met in an applicant-designated acrobatic configuration, and in each other configuration for which approval for spinning is requested:

(1) The airplane must recover from any point in a spin up to and including six turns, or any greater number of turns for which certification is requested, in not more than one and one-half additional turns after initiation of the first control action for recovery. However, beyond three turns, the spin may be discontinued if spiral characteristics appear.

(2) The applicable airspeed limits and limit maneuvering load factors must not be exceeded. For flaps extended configurations for which approval is requested, the flaps must not be retracted during the recovery.

(3) It must be impossible to obtain unrecoverable spins with any use of the flight or engine power controls either at the entry into or during the spin.

(4) There must be no characteristics during the spin (such as excessive rates of rotation or extreme oscillatory motion) that might prevent a successful recovery due to disorientation or incapacitation of the pilot.

(5) If the applicant demonstrates that it is impossible for the airplane in the applicant-designated acrobatic configuration, and in each other configuration for which approval for spinning is requested, to enter a spin with any use of the flight or engine power controls, either at or after entry into the stall maneuver, the airplane is considered to meet the requirements of paragraph (c)(1) of this SC. The demonstration must be conducted in accordance with the following—

(i) Reduce the airplane speed using pitch control at a rate of approximately 1 knot per second until the pitch control reaches the stop; then, with the pitch control pulled back and held against the stop, apply full rudder control in a manner to promote spin entry for a period of 7 seconds or through a 360 degree heading change, whichever occurs first. If the 360 degree heading change is reached first, it must have taken no fewer than 4 seconds. This maneuver must be performed first with the ailerons in the neutral position, and then with the ailerons deflected opposite the direction of turn in the most adverse manner.

(ii) Power must be set in accordance with § 23.201(e)(4) without change during the maneuver. At the end of 7 seconds or a 360 degree heading change, the airplane must respond immediately and normally to primary flight controls applied to regain coordinated, unstalled flight without reversal of control effect and without exceeding the temporary control forces specified by § 23.143(c).

We believe that the above special condition, which replaces § 23.221(c) in its entirety, provides the level of safety established for a part 23 airplane certificated in the acrobatic category.

Issued in Kansas City, Missouri on May 29, 2007.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–11152 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27193; Directorate Identifier 2007–CE–009–AD; Amendment 39–15091; AD 2007–12–13]

RIN 2120–AA64

Airworthiness Directives; Viking Air Limited (Type Certificate No. A–806 Previously Held by deHavilland Inc.) Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III Airplanes

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

ACTION: Final rule.

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

A report has been received of stress corrosion cracking occurring in the wing lift strut lower clevis fitting, part number C2W–1097A.

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

DATES: This AD becomes effective July 16, 2007.

On July 16, 2007 the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

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

FOR FURTHER INFORMATION CONTACT: George J. Duckett, Aerospace Engineer, FAA, New York Aircraft Certification Office, 10 Fifth Street, Valley Stream, New York 11581; telephone: (516) 228–7325; fax: (516) 794–5531.

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

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on March 22, 2007 (72 FR 13448) and proposed to supersede AD 88–08–02, Amendment 39–5889. That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

A report has been received of stress corrosion cracking occurring in the wing lift strut lower clevis fitting, part number C2W–1097A.

This AD revision is being issued to allow operators the option of continuing with the existing inspection intervals in accordance with CF–85–08R3 (Part A) or incorporating the improved alternate inspection method in accordance with Part B, to permit an increase in inspection intervals.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 392 products of U.S. registry. We also estimate that it will take about 7 work-hours per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $219,520, or $560 per product.

In addition, we estimate that any necessary follow-on actions will take about 7 work-hours and require parts costing $6,227 for each wing strut assembly, for a cost of $6,787 per wing strut assembly. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://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 the NPRM, 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 88–08–02, Amendment 39–5889, and adding the following new AD:

2007–12–13 Viking Air Limited (Type Certificate No. A–806 previously held by deHavilland Inc.): Amendment 39–15091; Docket No. FAA–2007–27193; Directorate Identifier 2007–CE–009–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 16, 2007.

Affected ADs

(b) This AD supersedes AD 88–08–02, Amendment 39–5889.

Applicability

(c) This AD applies to Models DHC–2 Mk. I, DHC–2 Mk. II, and DHC–2 Mk. III airplanes, all serial numbers, that:

(1) Are certificated in any category; and

(2) Are equipped with wing lift strut assemblies, part numbers (P/Ns) C2W1103, C2W1103A, C2W1104, or C2W1104A.

Subject

(d) Air Transport Association of America (ATA) Code 57: Wings.

Reason

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

A report has been received of stress corrosion cracking occurring in the wing lift strut lower clevis fitting, part number C2W–1097A.

This AD revision is being issued to allow operators the option of continuing with the existing inspection intervals in accordance with CF–85–08R3 (Part A) or incorporating the improved alternate inspection method in accordance with Part B, to permit an increase in inspection intervals.

Restatement of Requirements of AD 88–08–02

(f) For all Models DHC–2 Mk. I and DHC–2 Mk. III airplanes certificated in any category that are equipped with wing lift strut assemblies, P/Ns C2W1103, C2W1103A, C2W1104, or C2W1104A: Within the next 100 hours time-in-service (TIS) after May 11, 1988 (the effective date of AD 88–08–02) or one month after May 11, 1988 (the effective date of AD 88–08–02), whichever occurs first, and thereafter at intervals not to exceed 500 hours TIS or 12 calendar months, whichever occurs first, do the following:

(1) Remove the wing lift strut assemblies, P/Ns C2W1103 or C2W1103A and C2W1104 or C2W1104A from the airplane and prepare the assemblies for inspection as described in the "ACCOMPLISHMENT INSTRUCTIONS" section of DeHavilland Service Bulletin (S/B) No. 2/41, Revision A, dated August 14, 1987.

(2) Conduct a dye penetrant inspection with a 10-power glass for cracks in the lugs of the lower attachment clevis fitting.

(3) If cracks are found, before further flight, replace the complete wing lift strut assembly with a:

(i) Wing lift strut assembly of the same part number that has had the lower clevis fitting inspected using the dye penetrant procedure and has been found free of cracks; or

(ii) Wing lift strut assembly, P/N C2W1115–1 or P/N C2W1115–2, as appropriate.

(4) If no cracks are found, before further flight, clean the lower clevis fitting and reinstall the wing lift strut assembly.

(5) If wing strut assembly P/N C2W1115–1 or P/N C2W1115–2 is installed, the recurring inspection specified in paragraph (f) of this AD is no longer required.

New Requirements of This AD: Actions and Compliance

(g) Unless already done, do either (1) or (2) of the following actions:

(1) *Inspection using fluorescent penetrant method:* Perform the Accomplishment Instructions of Viking Air Ltd. Service Bulletin No. 2/41, Revision C, dated June 23, 2006.

(i) *For airplanes previously affected by AD 88–08–02:* Inspect the wing lift strut assemblies within the next 12 calendar months after the last inspection required by AD 88–08–02 or within the next 30 days after July 16, 2007 (the effective date of this AD), whichever occurs later, and thereafter at intervals not to exceed 12 calendar months.

(ii) *For airplanes not previously affected by AD 88–08–02:* Inspect the wing lift strut assemblies within the next 100 hours time-in-service (TIS) after July 16, 2007 (the effective date of this AD) or within the next 12 calendar months after July 16, 2007 (the effective date of this AD), whichever occurs first, and thereafter at intervals not to exceed 12 calendar months.

(2) *Inspection using eddy current method:* Perform the Accomplishment Instructions of Viking Air Ltd. SB No. 2/55, dated June 23, 2006.

(i) *For airplanes previously affected by AD 88–08–02:* Inspect the wing lift strut assemblies within the next 12 calendar months after the last inspection required by AD 88–08–02 or within the next 30 days after July 16, 2007 (the effective date of this AD), whichever occurs later, and thereafter at intervals not to exceed 24 calendar months.

(ii) *For airplanes not previously affected by AD 88–08–02:* Inspect the wing lift strut assemblies within the next 100 hours TIS after July 16, 2007 (the effective date of this AD) or within the next 12 calendar months after July 16, 2007 (the effective date of this AD), whichever occurs first, and thereafter at intervals not to exceed 24 calendar months.

(3) If cracks are found during any inspection required by either paragraph (g)(1) or (g)(2) of this AD, before further flight:

(i) Replace the complete wing lift strut assembly with a wing lift strut assembly of the same part number that has had the lower clevis fitting inspected using either the fluorescent penetrant method specified in paragraph (g)(1) of this AD or the eddy current method specified in paragraph (g)(2) of this AD and is found free of cracks. After replacement, continue with the repetitive inspections specified in paragraphs (g)(1) and (g)(2) of this AD; or

(ii) Replace the complete wing lift strut assembly with strut assembly C2W1115–1 or C2W1115–2, as appropriate. Installing wing strut assembly C2W1115–1 or C2W1115–2 as replacement parts terminates the repetitive inspections required in paragraphs (g)(1) and (g)(2) of this AD.

(4) If no cracks are found during any inspection required in paragraphs (g)(1) or (g)(2) of this AD, before further flight, clean the lower clevis fitting and reinstall the wing strut assembly. After reinstallation, continue with the repetitive inspections specified in paragraphs (g)(1) and (g)(2) of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office, FAA, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: George J. Duckett, Aerospace Engineer, 10 Fifth Street, Valley Stream, New York 11581; telephone: (516) 228–7325; fax (516) 794–5531, has the

authority to approve AMOCs for this AD. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) AMOCs approved for AD 88–08–02 are not approved for this AD.

(3) *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.

(4) *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

(i) Refer to MCAI Transport Canada AD CR–1985–08R4, dated September 28, 2006; Viking Service Bulletin No. 2/41, Revision "C", dated June 23, 2006; and Viking Service Bulletin No. 2/55, dated June 23, 2006; for related information.

Material Incorporated by Reference

(j) You must use Viking Service Bulletin DHC–2 MK I, MK II and MK III Turbo Beaver Service Bulletin No. 2/41, Revision C, dated June 23, 2006; or Viking DHC–2 Beaver Service Bulletin No. 2/55, dated June 23, 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 Viking Air Limited, 9584 Hampden Rd., Sidney, BC, Canada, V8L 5V5; telephone: (250) 656–7227.

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

Issued in Kansas City, Missouri, on May 31, 2007.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–10981 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28369; Directorate Identifier 2007–NM–076–AD; Amendment 39–15088; AD 2007–12–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 and A340 Airplanes

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

ACTION: Final rule; request for comments.

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

Two A330 operators have reported uncontained APU (auxiliary power unit) generator failures on ground. In both events, a loud noise was heard, followed by an APU automatic shutdown.

Preliminary investigations confirmed an uncontained APU Generator failure with subsequent aircraft structural damages to the APU compartment and, in one case, to the stabiliser compartment.

Loose APU generator parts can lead to damage to the APU fire wall which might reduce its fire extinguishing capability, possibly leading to a temporary uncontrolled fire which constitutes an unsafe condition.

* * *

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

DATES: This AD becomes effective June 26, 2007.

The Director of the Federal Register approved the incorporation by reference of certain publications, listed in the AD, as of June 26, 2007.

We must receive comments on this AD by July 11, 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 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: Tim Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This 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 AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2007–0080–R1, dated April 13, 2007 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Two A330 operators have reported uncontained APU (auxiliary power unit) generator failures on ground. In both events, a loud noise was heard, followed by an APU automatic shutdown.

Preliminary investigations confirmed an uncontained APU Generator failure with subsequent aircraft structural damages to the APU compartment and, in one case, to the stabiliser compartment.

Loose APU generator parts can lead to damage to the APU fire wall which might reduce its fire extinguishing capability, possibly leading to a temporary uncontrolled fire which constitutes an unsafe condition. Further detailed investigations are ongoing to determine the root causes of both events.

The MCAI requires a one-time inspection of the inlet screen for the scavenge-oil pump for signs of debris coming from the APU generator in order to get a complete fleet status. For airplanes on which any metallic debris is found during the inspection, the MCAI requires corrective actions in accordance with the relevant service information. Those corrective actions include shipping the debris to Airbus, and specify dispatching the airplane using one of the following four options:

- Replacing the APU generator and checking the APU oil system for metallic debris from the APU generator.
- Installing the APU generator substitution kit and checking the APU oil system for debris from the APU generator.
- Deactivating the APU generator and checking the APU oil system for debris from the APU generator.
- Keeping the APU inoperative.

The corrective actions also specify replacing the inlet screen if found damaged during the oil system check. For certain airplanes, the MCAI requires performing a check of the differential pressure indicator button on the lube filter and the generator scavenge filter.

Relevant Service Information

Airbus has issued All Operators Telexes (AOTs) A330–24A3042, A340–24A4056, and A340–24A5020, all Revision 02, all dated April 12, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

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

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because an uncontained APU failure can lead to damage to the APU fire wall, which might reduce its fire extinguishing capability, possibly leading to an uncontrolled fire. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2007–28369; Directorate Identifier 2007–NM–076–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–12–10 Airbus: Amendment 39–15088. Docket No. FAA–2007–28369; Directorate Identifier 2007–NM–076–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 26, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A330 and A340 airplanes; certificated in any category; all certified models, all serial numbers; for which the date of issuance of the original French standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness is before March 1, 2007.

Subject

(d) Electrical power.

Reason

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

Two A330 operators have reported uncontained APU (auxiliary power unit) generator failures on ground. In both events, a loud noise was heard, followed by an APU automatic shutdown.

Preliminary investigations confirmed an uncontained APU Generator failure with subsequent aircraft structural damages to the APU compartment and, in one case, to the stabiliser compartment.

Loose APU generator parts can lead to damage to the APU fire wall which might reduce its fire extinguishing capability, possibly leading to a temporary uncontrolled fire which constitutes an unsafe condition. Further detailed investigations are ongoing to determine the root causes of both events.

The MCAI requires a one-time inspection of the inlet screen for the scavenge-oil pump for signs of debris coming from the APU generator in order to get a complete fleet status. For airplanes on which any metallic debris is found during the inspection, the MCAI requires corrective actions in accordance with the relevant service information. Those corrective actions include shipping the debris to Airbus, and specify dispatching the airplane using one of the following four options: Replacing the APU generator and checking the APU oil system for metallic debris from the APU generator; installing the APU generator substitution kit and checking the APU oil system for debris from the APU generator; deactivating the APU generator and checking the APU oil system for debris from the APU generator; or keeping the APU inoperative. The corrective actions also specify replacing the inlet screen if found damaged during the oil system check. For certain airplanes, the MCAI requires performing a check of the differential pressure indicator button on the lube filter and the generator scavenge filter.

Actions and Compliance

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

(1) Within 63 days after the effective date of this AD, in accordance with the instructions of Airbus All Operators Telex (AOT) A330–24A3042, A340–24A4056, or A340–24A5020, all Revision 02, all dated April 12, 2007; as applicable: Inspect the inlet screen (last chance filter) for the generator scavenge-oil pump for signs of debris and, as applicable, apply all associated corrective actions before further flight.

(2) For Model A330 aircraft operating under MMEL (master minimum equipment list) Item 24–22–01 'AC Main Generation' or MMEL Item 36–11–01 'Bleed Air Supply System Failure': As of the effective date of this AD, before each flight, perform a check of the differential pressure indicator button on the lube filter and the generator scavenge filter in accordance with the instructions of Airbus AOT A330–24A3042, Revision 02, dated April 12, 2007.

Note 1: The repetitive checks before each flight specified in paragraph (f)(2) of this AD are not required for airplanes operated under MMEL Item 36–11–01, provided the APU generator has been removed or deactivated in accordance with the instructions of Airbus AOT A330–24A3042, Revision 02, dated April 12, 2007.

(3) Actions done before the effective date of this AD in accordance with the applicable Airbus service information in Table 1 of this AD are acceptable for compliance with the corresponding provisions of paragraph (f) of this AD.

TABLE 1.—ACCEPTABLE EARLIER REVISIONS OF SERVICE INFORMATION

Airbus all operators telex	Revision level	Date
A330–24A3042	Original	March 22, 2007.
A330–24A3042	01	March 29, 2007.
A340–24A4056	Original	March 22, 2007.
A340–24A4056	01	March 29, 2007.
A340–24A5020	Original	March 22, 2007.
A340–24A5020	01	March 29, 2007.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: Although the MCAI or service information requires checking the differential pressure indicator button on the lube and the generator scavenge filter until May 31, 2007, this AD does not provide a termination date for the checks. This difference has been coordinated with the European Aviation Safety Agency (EASA).

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *ATTN:* Tim Backman, Aerospace Engineer, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2797; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2007–0080–R1, dated April 13, 2007; and Airbus AOT A330–24A3042, A340–24A4056, or A340–24A5020, all Revision 02, all dated April 12, 2007; for related information.

Material Incorporated by Reference

(i) You must use the applicable Airbus service information specified in Table 2 of this AD to do the actions required by this AD, unless the AD specifies otherwise. (Only the first page of these documents contains the document number, revision level, and date; no other pages of these documents contain this information.)

(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 Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call

(202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Airbus all operators telex	Revision level	Date
A330–24A3042	02	April 12, 2007.
A340–24A4056	02	April 12, 2007.
A340–24A5020	02	April 12, 2007.

Issued in Renton, Washington, on May 30, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–10993 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27708; Directorate Identifier 2007–CE–027–AD; Amendment 39–15083; AD 2007–12–05]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Model DA 42 Airplanes

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

ACTION: Final Rule.

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

From airplanes that have installed the Auxiliary Fuel Tank Optional Design Change (OÄM) No. 42–056, three in-service failures of the auxiliary fuel tank venting system have been reported. These failures have led to the inability to supply the complete auxilliary fuel quantity to the main tanks and the collapse of the auxilliary tank. It is suspected that the vent lines were obstructed either by ice accretion under certain climatic conditions or by blockage of the vent valves because of fuel contaminants.

Undetected malfunctions of the venting system and damaged auxiliary fuel tanks may lead to a lower usable fuel quantity, subsequent fuel starvation and/or fuel spillage into the nacelle.

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

DATES: This AD becomes effective July 16, 2007.

On July 16, 2007, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://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.

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

SUPPLEMENTARY INFORMATION:

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

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 13, 2007 (72 FR 18600). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that:

From airplanes that have installed the Auxiliary Fuel Tank Optional Design Change (OÄM) No 42–056, three in-service failures of the auxiliary fuel tank venting system have been reported. These failures have led to the inability to supply the complete auxilliary fuel quantity to the main tanks and the collapse of the auxilliary tank. It is suspected that the vent lines were obstructed either by ice accretion under certain climatic conditions or by blockage of the vent valves because of fuel contaminants.

Undetected malfunctions of the venting system and damaged auxiliary fuel tanks may lead to a lower usable fuel quantity, subsequent fuel starvation and/or fuel spillage into the nacelle.

This Airworthiness Directive (AD) aims to check for proper operation the auxiliary fuel tank venting system, and check for damage the fuel tanks' structure.

This AD also requires installation of ventilation holes in the filler caps' fitting and introduction of a temporary revision into the Aircraft Maintenance Manual (AMM).

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 47 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $7,520, or $160 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://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 the NPRM, 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–12–05 Diamond Aircraft Industries GmbH: Amendment 39–15083; Docket No. FAA–2007–27708; Directorate Identifier 2007–CE–027–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 16, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model DA 42 airplanes; serial numbers 42.015, 42.028, 42.036, 42.044, 42.055, 42.059, 42.062, 42.067, 42.069, 42.075 through 42.100, 42.105, 42.106, 42.108, 42.114, 42.115, 42.117 through 42.122, and 42.124; certificated in any category.

Subject

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

Reason

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

From airplanes that have installed the Auxiliary Fuel Tank Optional Design Change (OÄM) No. 42–056, three in-service failures of the auxiliary fuel tank venting system have been reported. These failures have led to the inability to supply the complete auxilliary fuel quantity to the main tanks and the collapse of the auxilliary tank. It is suspected that the vent lines were obstructed either by ice accretion under certain climatic conditions or by blockage of the vent valves because of fuel contaminants.

Undetected malfunctions of the venting system and damaged auxiliary fuel tanks may lead to a lower usable fuel quantity, subsequent fuel starvation and/or fuel spillage into the nacelle.

This Airworthiness Directive (AD) aims to check for proper operation the auxiliary fuel tank venting system, and check for damage to the fuel tanks' structure.

This AD also requires installation of ventilation holes in the filler caps' fitting and introduction of a temporary revision into the Aircraft Maintenance Manual (AMM).

Actions and Compliance

(f) Unless already done, do the following actions within the next 30 days after July 16, 2007 (the effective date of this AD):

(1) Inspect and modify the auxiliary fuel tank system following Diamond Aircraft Industries GmbH Work Instruction WI–MSB–42–032, dated January 23, 2007, as referenced in Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB–42–032/1, dated January 24, 2007.

(2) Incorporate Doc. No. 7.02.01, Section 05–20–00, page 68a of Diamond Aircraft DA 42 AMM Temporary Revision AMM–TR–OÄM–42–056f, dated January 23, 2007, into the Airworthiness Limitations documents of the FAA-approved maintenance program (e.g., maintenance manual). 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 insert the information specified in paragraph (f)(2) of this AD into the maintenance program (e.g., maintenance manual). Make an entry into the aircraft records showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

Note 1: Doc. No. 7.02.01, Section 05–20–00, page 68a of Diamond Aircraft DA 42 AMM Temporary Revision AMM–TR–OÄM–42–056f, dated January 23, 2007, specifies additional repetitive inspections for the auxiliary tank vent system.

FAA AD Differences

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

Other FAA AD Provisions

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

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

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated

agent). You are required to assure the product is airworthy before it is returned to service.

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No: 2007–0047, dated February 23, 2007; Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB–42–032/1, dated January 24, 2007; Diamond Aircraft Industries GmbH Work Instruction WI–MSB–42–032, dated January 23, 2007; and Diamond Aircraft DA 42 AMM Temporary Revision AMM–TR–OÄM–42–056f, dated January 23, 2007, for related information.

Material Incorporated by Reference

(i) You must use Diamond Aircraft Industries GmbH Work Instruction WI–MSB–42–032, dated January 23, 2007, as referenced in Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB–42–032/1, dated January 24, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straβe 5, A–2700 Wiener Neustadt; telephone: +43 2622 26700; fax: +43 2622 26780; *e-mail: office@diamond-air.at.*

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

Issued in Kansas City, Missouri, on May 29, 2007.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–10744 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21434; Directorate Identifier 2004–NM–75–AD; Amendment 39–15092; AD 2007–12–14]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 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 Boeing Model 727 airplanes. This AD requires repetitive inspections for cracks of the body skin, doubler, and bear strap at the forward edge of the upper and lower hinge cutouts of the forward entry door, related investigative actions, and corrective action if necessary. This AD also requires a preventive modification. This AD results from reports of skin and bear strap cracks at hinge cutouts of the forward entry door. We are issuing this AD to detect and correct cracks in the skin, doubler, and bear strap at the hinge cutouts of the forward entry door, which could result in rapid decompression of the airplane.

DATES: This AD becomes effective July 16, 2007.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of July 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590.

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 Boeing Model 727 airplanes. That NPRM was published in the **Federal Register** on June 14, 2005 (70 FR 34405). That NPRM proposed to require repetitive inspections for cracks of the body skin, doubler, and bear strap at the forward edge of the upper and lower hinge cutouts of the forward entry door, related investigative actions, and corrective action if necessary. That NPRM also proposed to require a preventive modification.

Comments

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

Request To Refer to Latest Revision of Service Bulletin

Boeing requests that we refer to Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006, in the NPRM (Revision 2, dated October 30, 2003, was the latest version of the service bulletin at the time the NPRM was issued and was referred to as the appropriate source of service information for doing the actions specified in the NPRM). Boeing states that Revision 3 of the service bulletin clarifies details described in the NPRM but does not increase the scope of the final rule. Boeing concludes that use of Revision 3 would necessitate fewer clarifying comments.

We have reviewed Revision 3 of the service bulletin and concur with Boeing's assessment. Revision 3 provides the following information:

- Corrects and clarifies fastener symbols in Figures 2, 4, 5, and 6, and revises the fastener code "F" to "D" where applicable.
- Changes fastener part numbers and quantities in the Materials section to agree with data specified in Figures 2, 4, 5, and 6.
- Adds more data to Paragraph 1.E., "Compliance," and Table 1 in Appendix A to give more detail about airplane conditions, thresholds, and subsequent work.
- Clarifies inspection and repeat inspection data in paragraph 3.B. of the Work Instructions.

We have revised the final rule to refer to Revision 3 of the service bulletin as the appropriate source of service information for doing the required actions. We have also revised the descriptions of the actions specified in paragraphs (h) and (i) of the final rule to parallel the new descriptions in Revision 3 of the service bulletin. We have also clarified the inspection area specified in paragraph (g) of the final rule.

We also removed paragraph (n) of the NPRM from the final rule (and re-identified subsequent paragraphs accordingly) because the information specified in paragraph (n) of the NPRM is now included in Revision 3 of the service bulletin.

We have also added new paragraph (o) to the final rule to allow credit for actions done in accordance with Boeing Alert Service Bulletin 727–53A0198, Revision 2, dated October 30, 2003.

Request To Revise Grace Period in Paragraph (j) of the NPRM

Boeing requests that we revise the grace period specified in paragraph (j) of the NPRM for the preventive modification from "within 3,000 flight cycles after the effective date of this AD" to "within the earlier of 4 years or 7,200 flight cycles after the effective date of this AD." Boeing states the new grace period would match the grace period specified in AD 90–06–09, amendment 39–6488 (55 FR 8370, March 7, 1990), which mandates airplane modification requirements. Boeing notes that the "preventive modification requirement is based on Structures Task Group (STG) recommendations found in Boeing Document D6–54860 per AD 90–06–09." Boeing states that the 4-year grace period specified in AD 90–06–09 allows operators to schedule airplane modifications during major maintenance checks.

We agree to revise the grace period. AD 90–06–09 and this final rule require certain airplane modifications at 60,000 flight cycles. Coordinating the grace period allows operators to schedule the airplane modifications at the same time. We have determined that extending the grace period, as recommended by the manufacturer, will not adversely affect safety. We have revised the grace period in paragraph (j) of this final rule from "within 3,000 flight cycles after the effective date of this AD" to "within 48 months or 7,200 flight cycles, after the effective date of this AD, whichever occurs earlier."

Request to Revise References to Fillers and Shims

Boeing requests that we revise paragraph (h)(1) of the NPRM from "if the filler or shim is missing" to "if the filler is not present" and that we revise paragraph (h)(2) of the NPRM from "if the filler and shim are not missing" to "if the filler is present." Boeing also requests that we make these same changes in two paragraphs of the Relevant Service Information section of the NPRM. Boeing states that the inspection is made to determine if the filler is present or not, which is easier to understand than determining if it is missing or not missing. Boeing also states that references to a shim may be confusing because the service bulletin specifies that a filler is what is to be installed. Boeing notes that local shims may have been installed to allow local fit-up; however, a filler is considerably larger and is required for the quality of the general repair accomplishment.

We agree because of the reasons stated by the commenter. We have revised paragraphs (h)(1) and (h)(2) of the final rule accordingly. We have also revised paragraph (h) of the final rule to remove the reference to the shim. We have also added a clarification in paragraph (h) that airplanes on which the actions specified in Boeing Service Bulletin 727–53–0198, Revision 1, dated July 25, 1991, have been done do not need the inspection to determine if a filler was installed.

However, because the Relevant Service Information section of the NPRM is not restated in the final rule, we have not changed the final rule in that regard.

Request To Specify Modification Installation

Boeing requests that we revise paragraphs (h)(1)(i) and (h)(2)(i) of the NPRM to include "install modification" in the description of the action; i.e., "* * * oversize the fastener holes and install modification in accordance with * * *." Boeing states that it is clearer to complete the information to include the modification installation beyond just inspecting and oversizing the fastener holes.

We partially agree with the commenter. We agree that adding installation information will communicate more completely the requirements of the final rule. However, instead of adding "install modification" to the description in paragraphs (h)(1)(i) and (h)(2)(i) of the final rule, we have added the phrase "and re-install the repair or preventive modification" to those paragraphs to clarify that it could be either a repair or modification that is being re-installed.

Request To Clarify Reason for Modification

Boeing requests that we revise the "FAA's Determination and Requirements of the Proposed AD" section of the NPRM to clarify the reason we are requiring the modification. Boeing suggests that the statement that the preventive modification will be required should be revised to include the following: "[The] preventive modification requirement is based on Structures Task Group (STG) recommendations found in Boeing Document D6–54860 per AD 90–06–09."

We agree with the commenter that its statement provides a rationale for the preventive modification requirements of the final rule. However, because the "FAA's Determination and Requirements of the Proposed AD" section of the NPRM is not restated in the final rule, we have not changed the final rule in this regard.

Request To Revise Paragraphs (o) and (p) of the NPRM

Boeing requests that paragraph (o) of the NPRM be revised to more clearly state the actions or integrate the thresholds into paragraph (p) of the NPRM. Boeing states that paragraphs (o)(1) and (o)(2) of the NPRM are incomplete and that paragraph (o)(1) of the NPRM includes a sentence that is more of a clarification that belongs in paragraph (o) of the NPRM.

We agree that although paragraphs (o) and (p) of the NPRM are functional, the paragraphs could be revised for clarity. The initial and repetitive inspections that are specified in paragraphs (o) and (p) of the final rule are to be done after a repair or modification has been done.

For clarity, we have added the repetitive inspections to paragraph (i) of the final rule. Paragraph (i) of the final rule specifies to do the initial inspections after a repair or modification is accomplished. As a result of these changes, we have removed paragraphs (o) and (p) of the NPRM from the final rule (and re-identified subsequent paragraphs accordingly).

We have also revised paragraph (p)(4) of the final rule (which we referred to as paragraph (r)(2) in the NPRM) to refer to paragraph (i) of the final rule as the method of compliance to paragraph (g) of AD 98–11–03 R1, amendment 39–10983.

Clarification of Unsafe Condition Statement

We have revised the unsafe condition statement in the summary and in paragraph (d) of this final rule. In addition to detecting and correcting cracks in the skin and bear strap at the hinge cutouts of the forward entry door, this final rule is also issued to detect and correct cracks in the doubler. We have revised the unsafe condition statement accordingly. The actions specified in the NPRM were adequate; however, the unsafe condition did not specify all the areas that were proposed to be inspected. We are not expanding the scope in the final rule.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised paragraph (p) of this final rule to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

We have also revised paragraph (p) of this final rule to allow any crack in the subject area to be repaired according to data that conform to the airplane's type certificate and that are approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make such findings. We have simplified paragraph (m)(2) of this final rule by referring to paragraph (p) of this final rule for repair methods.

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. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

There are about 1,015 airplanes of the affected design in the worldwide fleet. 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. airplanes	Fleet cost
Inspection	7	$80	$560, per inspection cycle	589	$329,840, per inspection cycle.
Preventive modification	40	80	$3,200	589	$1,884,800.

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):

2007–12–14 Boeing: Amendment 39–15092. Docket No. FAA–2005–21434; Directorate Identifier 2004–NM–75–AD.

Effective Date

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

Affected ADs

(b) None

Applicability

(c) This AD applies to all Boeing Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category.

Unsafe Condition

(d) This AD was prompted by reports of skin and bear strap cracks at hinge cutouts of the forward entry door. We are issuing this AD to detect and correct cracks in the skin, doubler, and bear strap at the hinge cutouts of the forward entry door, which could result in rapid decompression 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.

Service Bulletin Reference

(f) The term "the service bulletin," as used in this AD, means Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006. Although the service bulletin referenced in this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Initial and Repetitive Inspections for Airplanes on Which No Actions Have Been Done

(g) For airplanes on which no repair or preventive modification has been done before the effective date of this AD in accordance with Boeing Service Bulletin 727–53–0198, dated January 11, 1990; Boeing Service Bulletin 727–53–0198, Revision 1, dated July 25, 1991; Boeing Alert Service Bulletin 727–53A0198, Revision 2, dated October 30, 2003; or Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006: Within 3,000 flight cycles after the effective date of this AD, do detailed and high frequency eddy current (HFEC) inspections for cracks of the skin, doubler, and bear strap at the upper and lower hinge cutout of the forward entry door in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006.

(1) If no crack is found, before further flight, apply finishes in accordance with the Accomplishment Instructions of the service bulletin and repeat the inspections required by paragraph (g) of this AD thereafter at intervals not to exceed 3,000 flight cycles, until the preventive modification required by paragraph (j) of this AD or a repair required by paragraph (m) of this AD is done.

(2) If any crack is found, before further flight, do the repair specified in paragraph (m) of this AD.

Inspections for Airplanes on Which Certain Actions Have Been Done

(h) For airplanes on which any repair or preventive modification has been done before the effective date of this AD in accordance with Boeing Service Bulletin 727–53–0198, dated January 11, 1990; or in accordance with Boeing Service Bulletin 727–53–0198, Revision 1, dated July 25, 1991, and on which the existing fastener holes were not HFEC inspected and oversized by 1/16 of an inch in accordance with step 3.B.9. of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–53A0198, Revision 2, dated October 30, 2003, or Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006: Within 12,000 flight cycles after the repair or preventive modification was done or within 3,000 flight cycles after the effective date of this AD, whichever is later, do a detailed inspection to determine if a filler was installed below the S–10 lap joint common to the upper hinge cutout, an internal HFEC inspection for cracks of the bear strap, and an external detailed inspection for cracks of the repair or preventive modification and its periphery, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006. Airplanes on which the actions specified in Boeing Service Bulletin 727–53–0198, Revision 1, dated July 25, 1991, have been done do not need the inspection to determine if a filler was installed.

(1) For airplanes on which the filler is not present: Before further flight, remove the external doubler, do detailed and HFEC inspections for cracks at the hinge cutout areas specified in Figure 1 of the service bulletin, and do an HFEC inspection of the pre-existing fastener holes for cracks, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006.

(i) If no crack is found, before further flight, oversize the fastener holes and re-install the repair or preventive modification in accordance with the Accomplishment Instructions of the service bulletin.

(ii) If any crack is found, before further flight, do the repair specified in paragraph (m) of this AD.

(2) For airplanes on which the filler is present and for airplanes on which the actions specified in Boeing Service Bulletin 727–53–0198, Revision 1, dated July 25, 1991, have been done: Before further flight, do an HFEC inspection of the pre-existing fastener holes for cracks in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006.

(i) If no crack is found, before further flight, oversize the fastener holes and, as applicable, re-install the repair or preventive modification, in accordance with the Accomplishment Instructions of the service bulletin.

(ii) If any crack is found, before further flight, do the repair specified in paragraph (m) of this AD.

Inspections for Airplanes On Which a Repair/Modification Has Been Done

(i) For airplanes identified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD: Within 40,000 flight cycles after the original repair or preventive modification was done or within 3,000 flight cycles after the effective date of this AD, whichever is later, do an internal HFEC inspection of the bear strap and an external detailed inspection for cracks of the repair or preventive modification and its periphery in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006. Repeat the HFEC inspection for cracks of the bear strap thereafter at intervals not to exceed 20,000 flight cycles. Repeat the detailed inspection for cracks of any repair and preventive modification and its periphery thereafter at intervals not to exceed 3,000 flight cycles. If any crack is found, before further flight, do the repair specified in paragraph (m) of this AD.

(1) Airplanes on which any repair or preventive modification has been done before the effective date of this AD in accordance with Boeing Service Bulletin 727–53–0198, dated January 11, 1990; or Revision 1, dated July 25, 1991. If a repair/preventative modification has been done in accordance with the original issue or Revision 1 of Boeing Service Bulletin 727–53–0198 and a repair/preventative modification has been done in accordance with Revision 2 of Boeing Alert Service Bulletin 727–53A0198 or Revision 3 of Boeing Service Bulletin 727–53A0198, the flight cycles must be counted from the first repair/preventative modification.

(2) Airplanes on which any repair or preventive modification has been done before the effective date of this AD in accordance with Boeing Alert Service Bulletin 727–53A0198, Revision 2, dated October 30, 2003.

(3) Airplanes on which any repair or preventive modification has been done in accordance with Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006.

Preventive Modification

(j) At the later of the times specified in paragraphs (j)(1) and (j)(2) of this AD: Do the preventive modification (including HFEC inspection) in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006. Doing the preventive modification terminates the repetitive inspections required by paragraph (g)(1) of this AD.

(1) Before the accumulation of 60,000 total flight cycles.

(2) Within 48 months or 7,200 flight cycles, after the effective date of this AD, whichever occurs earlier.

Note 1: Repairs or preventive modifications that were done using Boeing Service Bulletin 727–53–0198, dated January 11, 1990; or Revision 1, dated July 25, 1991; are not considered acceptable for complying with the requirements of paragraph (j) of this AD.

(k) In lieu of the preventive modification required by paragraph (j) of this AD, doing the applicable repair specified in paragraph (m) of this AD is acceptable.

(l) In lieu of the preventive modification required by paragraph (j) of this AD, doing the actions specified in paragraph (h) or (i) of this AD is acceptable for the airplanes identified in those paragraphs.

Repair

(m) If any crack is found during any inspection, preventive modification, or repair required by this AD, before further flight, do the applicable repair (including HFEC inspection) specified in paragraph (m)(1) or (m)(2) of this AD, as applicable. Doing the repair terminates the repetitive inspections required by paragraph (g)(1) of this AD. Doing the repair is acceptable for compliance with the requirements of paragraph (j) of this AD provided the repair is done within the time specified in that paragraph.

(1) If the crack does not exceed the limits described in the service bulletin, repair the crack in accordance with the applicable procedures in the Accomplishment Instructions of Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006.

(2) If the crack exceeds the limits described in Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006, and the service bulletin specifies to contact Boeing, or if the service bulletin specifies to repair before further flight and contact Boeing: Repair the crack using a method approved in accordance with the procedures specified in paragraph (p) of this AD.

No Requirement To Contact Boeing

(n) Although paragraphs 3.B.9. and 3.B.10. of the Accomplishment Instructions of Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006, specify to contact Boeing after repairing cracks, this AD does not include that requirement.

Actions Accomplished According to Previous Issue of Service Bulletin

(o) Actions accomplished before the effective date of this AD in accordance with Boeing Alert Service Bulletin 727–53A0198, Revision 2, dated October 30, 2003, are considered acceptable for compliance with the corresponding action specified in this AD.

Alternative Methods of Compliance (AMOCs)

(p)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

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

(4) The inspections specified in paragraph (i) of this AD are approved as a method of compliance (MOC) to paragraph (g) of AD 98–11–03 R1, amendment 39–10983, for the inspections of Structurally Significant Items (SSI) F–13A and F–14A of Supplemental Structural Inspection Document (SSID), D6–48040–1, affected by the repair or modification. The MOC applies only to the areas inspected in accordance with the service bulletin. All provisions of AD 98–11–03 R1 that are not specifically referenced in paragraphs (p)(4) and (p)(5) of this AD remain fully applicable and must be complied with.

(5) For airplanes on which no repair or preventive modification has been done in accordance with Boeing Service Bulletin 727–53–0198, dated January 11, 1990; Boeing Service Bulletin 727–53–0198, Revision 1, dated July 25, 1991; Boeing Alert Service Bulletin 727–53A0198, Revision 2, dated October 30, 2003; or Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006: The inspections and actions specified in paragraph (g) of this AD are approved as a MOC to paragraph (c) of AD 98–11–03 R1 for the inspections of SSI F–13A and F–14A of SSID, D6–48040–1. This MOC applies only to the areas inspected in accordance with the service bulletin. All other provisions of AD 98–11–03 R1 that are not specifically referenced in paragraphs (p)(4) and (p)(5) of this AD remain fully applicable and must be complied with.

Material Incorporated by Reference

(q) You must use Boeing Service Bulletin 727–53A0198, Revision 3, dated October 2, 2006, to perform the actions that are required by this AD, unless the AD specifies otherwise. 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html*.

Issued in Renton, Washington, on May 25, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–10983 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27806; Directorate Identifier 2006–NM–287–AD; Amendment 39–15090; AD 2007–12–12]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 50 Airplanes

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

ACTION: Final rule.

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

* * * discovery of interferences between the power wire supplying the galley's coffee-maker and the surrounding structure. These interferences might, by chafing and degrading the wire insulation, generate short circuits between the wire and the aircraft ground through the composite cabinet structure, without activation of the Circuit Breaker (C/B). Several hot spots may then be created and generate a large amount of thick smokes just behind the cockpit.

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

DATES: This AD becomes effective July 16, 2007.

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

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:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This 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 AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 9, 2007 (72 FR 17443). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

This Airworthiness Directive (AD) is issued following discovery of interferences between the power wire supplying the galley's coffee-maker and the surrounding structure. These interferences might, by chafing and degrading the wire insulation, generate short circuits between the wire and the aircraft ground through the composite cabinet structure, without activation of the Circuit Breaker (C/B). Several hot spots may then be created and generate a large amount of thick smokes just behind the cockpit.

This AD aims to prevent this kind of incident, mandating a wire inspection [for damaged wire sleeves], a check for a proper clearance and if necessary a wire re-routing.

The MCAI also requires disabling the galley's coffee-maker, and, in addition to wire re-routing, any required corrective actions. (Corrective actions include replacing worn or defective wire sleeves and shortening wires.) You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this AD will affect about 44 products of U.S. registry. We also estimate that it will take about 46 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the AD on U.S. operators to be $161,920, or $3,680 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://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 the NPRM, 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–12–12 Dassault Aviation: Amendment 39–15090. Docket No. FAA–2007–27806; Directorate Identifier 2006–NM–287–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective July 16, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Dassault Model Mystere-Falcon 50 airplanes; certificated in any category; with serial number 275 through 293 and 295 through 303 and 305 through 330 inclusive, with the exception of airplanes which have already embodied the Dassault Service Bulletin F50–456.

Subject

(d) Electrical Power; Equipment/Furnishings.

Reason

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

This Airworthiness Directive (AD) is issued following discovery of interferences between the power wire supplying the galley's coffee-maker and the surrounding structure. These interferences might, by chafing and degrading the wire insulation, generate short circuits between the wire and the aircraft ground through the composite cabinet structure, without activation of the Circuit Breaker (C/B). Several hot spots may then be created and generate a large amount of thick smokes just behind the cockpit.

This AD aims to prevent this kind of incident, mandating a wire inspection [for damaged wire sleeves], a check for a proper clearance and if necessary a wire re-routing.

The MCAI also requires disabling the galley's coffee-maker, and, in addition to wire re-routing, any required corrective actions. (Corrective actions include replacing worn or defective wire sleeves and shortening wires.)

Actions and Compliance

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

(1) Within 50 flight hours or 1 month after the effective date of this AD, whichever occurs first, disable the galley's coffee-maker by pulling and locking out the circuit breaker 710HG, as instructed in Dassault Service Bulletin F50–471, dated October 25, 2006.

(2) Within 1,530 flight hours or 24 months after the effective date of this AD, whichever occurs first, inspect for damaged wire sleeves, check their proper clearance, and if a discrepancy is found, prior to next flight, proceed to do all applicable corrective actions as indicated in the Accomplishment Instructions of Dassault Service Bulletin F50–456, dated October 25, 2006. Doing the actions specified in this paragraph terminates the requirements of paragraph (f)(1) of this AD, and after the actions have been done, the circuit breaker collar required by paragraph (f)(1) of this AD may be removed.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: The MCAI does not indicate that doing the actions specified in Dassault Service Bulletin F50–456, dated October 25, 2006, terminates the requirement to disable the coffee-maker. This AD indicates that doing the actions specified in Dassault Service Bulletin F50–456 terminates the requirements to disable the coffee-maker, and after the actions have been done, the circuit breaker collar may be removed.

Other FAA AD Provisions

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

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

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency Emergency Airworthiness Directive 2006–0329–E, dated October 25, 2006; Dassault Service Bulletin F50–471, dated October 25, 2006; and Dassault Service Bulletin F50–456, dated October 25, 2006; for related information.

Material Incorporated by Reference

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

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

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

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

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Dassault Service Bulletin	Revision level	Date
F50–456	Original	October 25, 2006.
F50–471	Original	October 25, 2006.

Issued in Renton, Washington, on May 30, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–10991 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27525; Directorate Identifier 2006–NM–159–AD; Amendment 39–15089; AD 2007–12–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, 747SR, and 747SP Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Boeing Model 747 airplanes. That AD currently requires repetitive inspections to detect cracks and/or corrosion of the girt bar support fitting at certain main entry doors (MED), and repair or replacement of the support fitting. The existing AD also provides for various terminating actions for the repetitive inspections. This new AD requires the following additional actions: An inspection, for certain airplanes, for correct installation of square and conical washers in the girt bar support fitting; an inspection, for certain other airplanes, to determine if the washers are installed; and related investigative and corrective action if necessary. This AD results from a report that the square and conical washers may be installed incorrectly in the girt bar support fitting on airplanes on which the support fitting was repaired or replaced in accordance with the requirements of the existing AD. We are issuing this AD to detect and correct corrosion of the girt bar support fitting, which could result in separation of the escape slide from the lower door sill during deployment, and subsequently prevent proper operation of the escape slides at the main entry doors during an emergency. We are also issuing this AD to detect and correct incorrect installation of the square and conical washers in the girt bar support fitting, which could result in failure of the escape slide when deployed.

DATES: This AD becomes effective July 16, 2007.

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

On December 16, 1996 (61 FR 58318, November 14, 1996), the Director of the Federal Register approved the incorporation by reference of Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994.

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

FOR FURTHER INFORMATION CONTACT: Patrick Gillespie, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6429; fax (425) 917–6590.

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 supersedes AD 96–23–05, amendment 39–9810 (61 FR 58318, November 14, 1996). The existing AD applies to certain Boeing Model 747 airplanes. That NPRM was published in the **Federal Register** on March 15, 2007 (72 FR 12136). That NPRM proposed to continue to require repetitive inspections to detect cracks and/or corrosion of the girt bar support fitting at certain main entry doors (MED), and repair or replacement of the support fitting. The existing AD also provides for various terminating actions for the repetitive inspections. The NPRM also proposed to require the following additional actions: An inspection, for certain airplanes, for correct installation of square and conical washers in the girt bar support fitting; an inspection, for certain other airplanes, to determine if the washers are installed; and related investigative and corrective action if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the single comment that has been received on the NPRM. The commenter, Boeing, supports the NPRM.

Clarification of Alternative Method of Compliance (AMOC) Paragraph

We have revised this action to clarify the appropriate procedure for notifying the principal inspector before using any approved AMOC on any airplane to which the AMOC applies.

Conclusion

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

Costs of Compliance

There are about 1,012 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this AD. The average labor rate per work hour is $80. The cost varies depending on the configuration of the airplane.

ESTIMATED COSTS

Action	Work hours	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection of MEDs (required by AD 96–23–05).	Between 88 and 102	Between $7,040 and $8,160, per inspection cycle.	169	Between $1,189,760 and $1,379,040, per inspection cycle.
Inspection for correct installation (new required action).	6	$480	Up to 169	Up to $81,120.

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 removing amendment 39–9810 (61 FR 58318, November 14, 1996) and by adding the following new airworthiness directive (AD):

2007–12–11 Boeing: Amendment 39–15089. Docket No. FAA–2007–27525; Directorate Identifier 2006–NM–159–AD.

Effective Date

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

Affected ADs

(b) This AD supersedes AD 96–23–05.

Applicability

(c) This AD applies to Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–300, 747–400, 747–400D, 747SR, and 747SP series airplanes, certificated in any category, line numbers 1 through 868 inclusive.

Unsafe Condition

(d) This AD results from reports that, during scheduled deployment tests of main entry door slides, corrosion was found on the floor structure supports for the escape slides of the main deck entry doors on these airplanes. This AD also results from a report that the square and conical washers may be installed incorrectly in the girt bar support fitting on airplanes on which the support fitting was repaired or replaced in accordance with the requirements of AD 96–23–05. We are issuing this AD to detect and correct corrosion of the girt bar support fitting, which could result in separation of the escape slide from the lower door sill during deployment, and subsequently prevent proper operation of the escape slides at the main entry doors during an emergency. We are also issuing this AD to detect and correct incorrect installation of the square and conical washers in the girt bar support fitting, which could result in failure of the escape slide when deployed.

Compliance

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

Restatement of Requirements of AD 96–23–05 With New Service Information

Doors Exempt From/Affected by This AD

(f) The requirements of this AD are not applicable to doors where an escape slide or slide/raft is not installed or is not used for passenger egress (such as a deactivated door 3, at doors 4 and/or 5 of an airplane being operated in the "combi" configuration, or any door not used for passenger egress in a "convertible" (an airplane configured for quick change from passenger to cargo)). The requirements of this AD are also not applicable to doors on airplanes converted to an all-cargo configuration. The requirements of this AD become applicable at the time when an escape slide or slide/raft is installed on such doors, or when such doors are activated and/or converted for passenger use. The requirements also become applicable at the time an airplane operating in an all-cargo configuration is converted to a passenger or passenger/cargo configuration.

Inspections and Corrective Actions for Airplanes Equipped With Main Entry Door (MED) 1

(g) For airplanes equipped with MED 1: Prior to the accumulation of 16 years of service since date of manufacture of the airplane, or within 18 months after December 16, 1996 (the effective date of AD 96–23–05), whichever occurs later, perform a detailed inspection to detect cracking and/or corrosion of the girt bar support fitting at the left and right MED 1, in accordance with Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005. After the effective date of this AD, only Revision 3 may be used.

(h) If no cracking or corrosion is found during the inspection required by paragraph (g) of this AD, prior to further flight, accomplish either paragraph (h)(1) or (h)(2) of this AD, in accordance with the applicable instructions specified in Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005. After the effective date of this AD, only Revision 3 may be used.

(1) Install a new fitting with new fasteners, and reinstall the threshold assembly with new corrosion-resistant fasteners, in accordance with the service bulletin. After these actions are accomplished, no further action is required by paragraph (h) of this AD; or

(2) Reinstall the threshold assembly with corrosion-resistant fasteners, in accordance with the service bulletin. Thereafter, repeat the inspection required by paragraph (g) of this AD at intervals not to exceed 6 years.

(i) If any cracking is found during the inspection required by paragraph (g) or (h)(2) of this AD, prior to further flight, install a new fitting with new fasteners, and reinstall the threshold assembly with new corrosion-resistant fasteners, in accordance with Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005. After the effective date of this AD, only Revision 3 may be used. After these actions are accomplished, no further action is required by this paragraph.

(j) If any corrosion is found during the inspection required by paragraph (g) or (h)(2) of this AD, prior to further flight, accomplish either paragraph (j)(1) or (j)(2) of this AD, in accordance with Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005. After the effective date of this AD, only Revision 3 may be used.

(1) Install a new fitting with new fasteners, and reinstall the threshold assembly with new corrosion-resistant fasteners in accordance with the service bulletin. After these actions are accomplished, no further action is required by this paragraph; or

(2) Blend out corrosion in accordance with the service bulletin.

(i) If blend out of corrosion is beyond 10 percent of original thickness or any crack is found during accomplishment of the blend out procedures, install a new fitting with new fasteners, and reinstall the threshold assembly with new corrosion-resistant fasteners, in accordance with the service bulletin. After these actions are accomplished, no further action is required by this paragraph.

(ii) If blend out of corrosion does not exceed 10 percent of original material thickness, accomplish either paragraph (j)(2)(ii)(A) or (j)(2)(ii)(B) of this AD:

(A) Install a new fitting with new fasteners, and reinstall threshold assembly with new corrosion-resistant fasteners, in accordance with the service bulletin. After these actions are accomplished, no further action is required by this paragraph; or

(B) Install the repaired fitting with new fasteners and reinstall the threshold assembly with corrosion-resistant fasteners, in accordance with the service bulletin. Thereafter, repeat the inspection and applicable corrective actions required by paragraph (g) of this AD at intervals not to exceed 6 years.

Inspections and Corrective Actions for Airplanes Equipped With MED 2, 4, and/or 5 (MED 2, 3, and/or 4 on Model 747SP Series Airplanes)

(k) For airplanes equipped with MED 2, 4, and/or 5 (MED 2, 3, and/or 4 on Model 747SP series airplanes): Prior to the accumulation of 10 years of service since date of manufacture of the airplane, or within 18 months after December 16, 1996, whichever occurs later, perform a detailed inspection to detect cracking and/or corrosion of the girt bar support fitting at the left and right MED 2, 4, and 5 (MED 2, 3, and 4 on Model 747SP series airplanes), in accordance with Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005. After the effective date of this AD, only Revision 3 may be used.

(l) If no cracking or corrosion is found during the inspection required by paragraph (k) of this AD, prior to further flight, accomplish either paragraph (l)(1) or (l)(2) of this AD, in accordance with the applicable instructions in Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005. After the effective date of this AD, only Revision 3 may be used.

(1) Remove the inspected fitting and reinstall it with a new coat of primer and new fasteners; and reinstall the threshold assembly with new corrosion-resistant fasteners; in accordance with the service bulletin. After these actions are accomplished, no further action is required by this paragraph; or

(2) Reinstall the serrated plate assembly and the girt bar floor fitting with corrosion-resistant fasteners, in accordance with the service bulletin. Thereafter, repeat the inspection required by paragraph (k) of this AD at intervals not to exceed 6 years.

(m) If any cracking is found during the inspection required by paragraph (k) or (l)(2) of this AD, prior to further flight, install a new fitting with new fasteners, and reinstall the threshold assembly with new corrosion-resistant fasteners, in accordance with Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005. After the effective date of this AD, only Revision 3 may be used. After these actions are accomplished, no further action is required by this paragraph.

(n) If any corrosion is found during the inspection required by paragraph (k) or (l)(2) of this AD, prior to further flight, accomplish either paragraph (n)(1) or (n)(2) of this AD, in accordance with Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–

53A2378, Revision 3, dated August 11, 2005. After the effective date of this AD, only Revision 3 may be used.

(1) Install a new fitting with new fasteners, and reinstall the threshold assembly with new corrosion-resistant fasteners, in accordance with the service bulletin. After these actions are accomplished, no further action is required by this paragraph; or

(2) Blend out corrosion in accordance with the service bulletin.

(i) If blend out of corrosion is beyond 10 percent of original thickness or any crack is found during accomplishment of the blend out procedures, install a new fitting with new fasteners, and reinstall the threshold assembly with new corrosion-resistant fasteners, in accordance with the service bulletin. After these actions are accomplished, no further action is required by this paragraph.

(ii) If blend out of corrosion does not exceed 10 percent of original material thickness, install the repaired fitting with new fasteners, and reinstall the threshold assembly with new corrosion-resistant fasteners, in accordance with the service bulletin. After these actions are accomplished, no further action is required by this paragraph.

(o) For airplanes equipped with main entry door (MED) 3 (this paragraph does not apply to Model 747SP series airplanes): Prior to the accumulation of 16 years of service since date of manufacture of the airplane, or within 18 months after December 16, 1996, whichever occurs later, perform a detailed inspection to detect cracking and/or corrosion of the girt bar support angles at the left and right MED 3, in accordance with Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005. After the effective date of this AD, only Revision 3 may be used.

(p) If no cracking or corrosion is found during the inspection required by paragraph (o) of this AD, prior to further flight, accomplish either paragraph (p)(1) or (p)(2) of this AD in accordance with the applicable instructions in Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005. After the effective date of this AD, only Revision 3 may be used.

(1) Remove the inspected angle and reinstall it with a new coat of primer and new fasteners; and reinstall the threshold assembly with new corrosion-resistant fasteners; in accordance with the service bulletin. After these actions are accomplished, no further action is required by this paragraph; or

(2) Reinstall the corner scuff plate and the threshold apron with corrosion-resistant fasteners, in accordance with the service bulletin. Thereafter, repeat the inspection required by paragraph (o) of this AD at intervals not to exceed 6 years.

(q) If any crack common to the support angles is found during the inspection required by paragraph (o) or (p)(2) of this AD, prior to further flight, accomplish the actions specified in paragraph (q)(1) or (q)(2), as applicable, in accordance with Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005. After the effective date of this AD, only Revision 3 may be used:

(1) Install the new angles with new fasteners, and reinstall the threshold assembly with new corrosion-resistant fasteners. After these actions are accomplished, no further action is required by this paragraph of this AD; or

(2) For any cracking found only in the corner casting as specified in the service bulletin, accomplish either paragraph (q)(2)(i) or (q)(2)(ii) prior to further flight:

(i) Replace the corner casting in accordance with the service bulletin; or

(ii) Repair the cracked part in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Refer to paragraph (w) of this AD for the appropriate procedure for seeking such an approval. (This option is provided in order to give operators time to obtain a replacement corner casing without grounding an airplane.) This repair is considered temporary action only; replacement of the corner casting eventually must be accomplished in accordance with a schedule prescribed by the Manager, Seattle ACO.

(r) If any corrosion is found during the inspection required by paragraph (o) of this AD, prior to further flight, accomplish either paragraph (r)(1) or (r)(2) of this AD, in accordance with Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005. After the effective date of this AD, only Revision 3 may be used.

(1) Install the new angles with new fasteners, and reinstall the threshold assembly with new corrosion-resistant fasteners, in accordance with the service bulletin. After these actions are accomplished, no further action is required by this paragraph; or

(2) Blend out corrosion in accordance with the service bulletin.

(i) If blend out of corrosion is beyond 10 percent of original thickness, or if any crack common to the support angles is found during accomplishment of the blend out procedures, install the new angles with new fasteners, and reinstall the threshold assembly with new corrosion-resistant fasteners, in accordance with the service bulletin. After these actions are accomplished, no further action is required by this paragraph.

(ii) If blend out of corrosion does not exceed 10 percent of original material thickness, install the repaired angles with new fasteners, and reinstall the threshold assembly with new corrosion-resistant fasteners, in accordance with the service bulletin. After these actions are accomplished, no further action is required by this paragraph.

Actions Accomplished According to Previous Issue of Service Bulletin

(s) Installation of a girt bar support fitting in accordance with Boeing Service Bulletin 747–25A2831, dated August 29, 1991, before the effective date of this AD, is considered acceptable for compliance with the corresponding requirements of paragraphs (h), (i), (j), (l), (m), and (n) of this AD for each affected fitting location.

New Requirements of This AD

Inspections for the Washers and Related Investigative/Corrective Actions

(t) For Groups 7, 8, and 9 airplanes identified in Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005, on which the support fitting was replaced or repaired in accordance with Boeing Service Bulletin 747–53A2378, dated June 24, 1993; Revision 1, dated March 10, 1994; or Revision 2, dated July 24, 2003; or Boeing Service Bulletin 747–25A2831, dated August 29, 1991: Within 18 months after the effective date of this AD, do a general visual inspection for correct installation of square and conical washers in the girt bar floor fittings, and, before further flight, do all applicable related investigative and corrective actions. Do all actions in accordance with Figure 18 and the applicable steps specified on page 52 in the Accomplishment Instructions of Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005, except as provided by paragraph (v) of this AD.

(u) For Groups 1 through 6 airplanes identified in Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005, on which the support fitting was replaced or repaired in accordance with Boeing Service Bulletin 747–53A2378, dated June 24, 1993; Revision 1, dated March 10, 1994; or Revision 2, dated July 24, 2003; or with Boeing Service Bulletin 747–25A2831, dated August 29, 1991: Within 18 months after the effective date of this AD, do a general visual inspection to determine if square and conical washers are installed in the girt bar floor fittings, and before further flight, do all applicable related investigative and corrective actions. Do all actions in accordance with Figure 18 and the applicable steps specified on pages 52 and 53 in the Accomplishment Instructions of Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005, except as provided by paragraph (v) of this AD.

(v) If any damage is found during any inspection required by paragraphs (t) and (u) of this AD, and Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005, specifies contacting Boeing for appropriate action: Before further flight, do the repair using a method approved by the Manager, Seattle ACO, or in accordance with data meeting the certification basis of the airplane approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Alternative Methods of Compliance (AMOCs)

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

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

(3) AMOCs approved previously in accordance with AD 96–23–05, are approved as AMOCs for the corresponding provisions of this AD.

Material Incorporated by Reference

(x) You must use Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994; or Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005; as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Boeing Service Bulletin 747–53A2378, Revision 3, dated August 11, 2005, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On December 16, 1996 (61 FR 58318, November 14, 1996), the Director of the Federal Register approved the incorporation by reference of Boeing Service Bulletin 747–53A2378, Revision 1, dated March 10, 1994.

(3) Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on May 30, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–10982 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27071; Directorate Identifier 2007–CE–004–AD; Amendment 39–15084; AD 2007–12–06]

RIN 2120–AA64

Airworthiness Directives; Hawker Beechcraft Corporation (Type Certificate (TC) No. 3A20 and TC No. A24CE Formerly Held by Raytheon Aircraft Corporation and Beech) Models C90A, B200, B200C, B300, and B300C Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) that supersedes AD 2006–23–02, which applies to certain Hawker Beechcraft Corporation (HBC) (Type Certificate (TC) No. 3A20 and TC No. A24CE formerly held by Raytheon Aircraft Corporation and Beech) Models C90A, B200, B200C, B300, and B300C airplanes. AD 2006–23–02 currently requires you to inspect the flight controls for improper assembly or damage, and if any improperly assembled or damaged flight controls are found, take corrective action. Since we issued AD 2006–23–02, we have determined the need to add airplane serial numbers that were not previously included in the applicability. Consequently, this AD retains the actions of AD 2006–23–02 and adds airplane serial numbers to the applicability. We are issuing this AD to detect and correct improperly assembled or damaged flight controls, which could result in an unsafe condition by reducing capabilities of the flight controls and lead to loss of control.

DATES: This AD becomes effective on July 16, 2007.

On July 16, 2007, the Director of the Federal Register approved the incorporation by reference of Raytheon Aircraft Company Mandatory Service Bulletin Number SB 27–3761, Rev. 1, December 2006, listed in this AD.

As of December 13, 2006 (71 FR 65390 Nov. 8, 2006), the Director of the Federal Register approved the incorporation by reference of Raytheon Aircraft Company Mandatory Service Bulletin Number SB 27–3761, Issued: February 2006, listed in this AD.

ADDRESSES: For service information identified in this AD, contact Hawker Beechcraft Corporation, 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 20590–0001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2007–27071; Directorate Identifier 2007–CE–004–AD.

FOR FURTHER INFORMATION CONTACT: Chris B. Morgan, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4154; fax: (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Discussion

On March 6, 2007, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain HBC Models C90A, B200, B200C, B300, and B300C airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 12, 2007 (72 FR 10949). The NPRM proposed to retain the actions of AD 2006–23–02 and add airplane serial numbers to the applicability.

Comments

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

Conclusion

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

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

Costs of Compliance

We estimate that this AD affects 138 airplanes in the U.S. registry.

We estimate the following costs to do the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
80 work-hours × $80 per hour = $6,400	Not Applicable	$6,400	$883,200

We have no way of determining the number of airplanes that may need any corrective action that would be required based on the results of the proposed inspection.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "Docket No. FAA–2007–27071; Directorate Identifier 2007–CE–004–AD" in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–12–06 Hawker Beechcraft Corporation Hawker Beechcraft Corporation (Type Certificate (TC) No. 3A20 and TC No. A24CE formerly held by Raytheon Aircraft Corporation and Beech): Amendment 39–15084; Docket No. FAA–2007–27071; Directorate Identifier 2007–CE–004–AD.

Effective Date

(a) This AD becomes effective on July 16, 2007.

Affected ADs

(b) This AD supersedes AD 2006–23–02, Amendment 39–14814.

Applicability

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

(1) Group 1 Airplanes (maintains the actions from AD 2006–23–02):

Model	Serial No.
(i) C90A	LJ–1697 through LJ–1726, LJ–1728, LJ–1729, and LJ–1731 through LJ–1739.
(ii) B200	BB–1827 through BB–1912.
(iii) B200C	BL–148 and BL–149.
(iv) B300	FL–379 through FL–423, FL–426, FL–428 through FL–450, and FL–452.
(v) B300C	FM–11.

(2) Group 2 Airplanes: Model C90A, serial numbers LJ–1741 through LJ–1743.

Unsafe Condition

(d) This AD results from our determination to add airplane serial numbers that were not previously included in the applicability. We are issuing this AD to detect and correct improperly assembled or damaged flight controls, which could result in an unsafe condition by reducing capabilities of the flight controls and lead to loss of control.

Compliance

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

Actions	Compliance	Procedures
(1) Inspect the entire flight control system for improper assembly and any damage.	(i) For Group 1 Airplanes: At whichever of the following occurs first: (A) Within the next 100 hours time-in-service (TIS) after December 13, 2006 (the effective date of AD 2006–23–02); or (B) At the next annual inspection that occurs at least 30 days after December 13, 2006 (the effective date of AD 2006–23–02) (ii) For Group 2 Airplanes: At whichever of the following occurs first: (A) Within the next 100 hours TIS after July 16, 2007 (the effective date of this AD); or (B) At the next annual inspection that occurs at least 30 days after July 16, 2007 (the effective date of this AD).	Follow Raytheon Aircraft Company Mandatory Service Bulletin Number SB 27–3761, Issued: February 2006; or Raytheon Aircraft Company Mandatory Service Bulletin Number SB 27–3761, Rev. 1, Dated December 2006.
(2) If you find any improperly assembled or damaged flight controls as a result of the inspection required by paragraph (e)(1) of this AD, take corrective action as specified in the service information.	Before further flight after the inspection required by paragraph (e)(1) of this AD.	Follow Raytheon Aircraft Company Mandatory Service Bulletin Number SB 27–3761, Issued: February 2006; or Raytheon Aircraft Company Mandatory Service Bulletin Number SB 27–3761, Rev. 1, Dated December 2006.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Chris B. Morgan, Aerospace Engineer, FAA, Wichita ACO, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4154; fax: (316) 946–4107. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(g) AMOCs approved for AD 2006–23–02 are approved for this AD.

Related Information

(h) To get copies of the service information referenced in this AD, contact Hawker Beechcraft Corporation, 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–2007–27071; Directorate Identifier 2007–CE–004–AD.

Material Incorporated by Reference

(i) You must use Raytheon Aircraft Company Mandatory Service Bulletin Number SB 27–3761, Issued: February 2006; or Raytheon Aircraft Company Mandatory Service Bulletin Number SB 27–3761, Rev. 1, Dated December 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 Raytheon Aircraft Company Mandatory Service Bulletin Number SB 27–3761, Rev. 1, Dated December 2006, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On December 13, 2006 (71 FR 65390 Nov. 8, 2006), the Director of the Federal Register approved the incorporation by reference of Raytheon Aircraft Company Mandatory Service Bulletin Number SB 27–3761, Issued: February 2006.

(3) For service information identified in this AD, contact Hawker Beechcraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140.

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

Issued in Kansas City, Missouri, on May 29, 2007.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–10758 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 10, 24, 162, 163, and 178

[USCBP–2007–0057; CBP Dec. 07–28]

RIN 1505–AB48

United States-Singapore Free Trade Agreement

AGENCIES: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This rule amends title 19 of the Code of Federal Regulations ("CFR") on an interim basis to implement the preferential tariff treatment and other customs-related provisions of the U.S.-Singapore Free Trade Agreement entered into by the United States and the Republic of Singapore.

DATES: Interim rule effective June 11, 2007; comments must be received by August 10, 2007.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2007–0057.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue,

NW. (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

FOR FURTHER INFORMATION CONTACT:

Textile Operational Aspects: Robert Abels, Office of Field Operations, (202) 344–1959.

Other Operational Aspects: Lori Whitehurst, Office of Field Operations, (202) 344–2722.

Audit Aspects: Mark Hanson, Office of Regulatory Audit, (202) 344–2877.

Legal Aspects: Edward Leigh, Office of International Trade, (202) 572–8810.

SUPPLEMENTARY INFORMATION:

I. Public Participation

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

II. Background

On May 6, 2003, the United States and the Republic of Singapore (the "Parties") signed the U.S.-Singapore Free Trade Agreement ("SFTA"). The stated objectives of the SFTA include promoting open and competitive markets in trade between the Parties; promoting transparency and eliminating bribery and corruption in business transactions within the territories of the Parties; expanding trade in services between the Parties on a mutually advantageous basis; and, recognizing that liberalized trade in goods and services will assist the expansion of trade and investment flows, raise the standard of living and create new employment opportunities within the territories of the Parties.

The provisions of the SFTA were adopted by the United States with the enactment of the United States-Singapore Free Trade Agreement Implementation Act (the "Act"), Pub. L. 108–78, 117 Stat. 948 (19 U.S.C. 3805 note) (2003). Section 206 of the Act requires that regulations be prescribed as necessary.

U.S. Customs and Border Protection ("CBP") is responsible for administering the provisions of the SFTA and the Act that relate to the importation of goods into the United States from Singapore. Those customs-related SFTA provisions which require implementation through regulation include certain tariff and non-tariff provisions within Chapter One (Establishment of a Free Trade Area and Definitions), Chapter Two (National Treatment and Market Access for Goods), Chapter Three (Rules of Origin), Chapter Four (Customs Administration), and Chapter Five (Textiles and Apparel).

In Chapter One of the SFTA, certain general definitions in Article 1.2 have been incorporated in the SFTA implementing regulations. The tariff-related provisions within SFTA Chapter Two that require regulatory action by CBP are Article 2.6 (Goods re-entered after Repair or Alteration), Article 2.8 (Merchandise Processing Fee), and Article 2.12 (Tariff Preference Levels).

Chapter Three of the SFTA sets forth the rules for determining whether an imported good qualifies as an originating good of the United States or Singapore ("SFTA country") and, as such, is therefore eligible for preferential tariff (duty-free or reduced duty) treatment under the SFTA as provided for in the Harmonized Tariff Schedule of the United States ("HTSUS"). Under Article 3.1 of Chapter Three, originating goods may be grouped in three broad categories: (1) Goods that are wholly obtained or produced entirely in one or both of the Parties; (2) goods that are listed in Annex 3B (Integrated Sourcing Initiative) of the SFTA and are imported from the territory of Singapore; and (3) goods that have been produced in one or both of the Parties so that each non-originating material satisfies the specific requirements in SFTA Annex 3A (change in tariff classification requirement and/or regional value content requirement). Article 3.2 provides originating status for goods covered by the Agreement's Integrated Sourcing Initiative. Article 3.3 provides a *de minimis* criterion. Article 3.4 allows production that takes place in the territory of both Parties to be accumulated such that, provided other requirements are met, the resulting good is considered originating. Article 3.5 sets forth the methods for calculating the regional value content of a good. Article 3.6 sets forth the rules for determining the value of materials for purposes of calculating the regional value content of a good and applying the *de minimis* rule. The remaining Articles within Section A of Chapter Three consist of additional sub-rules, applicable to the originating good concept, involving accessories, spare parts and tools, fungible materials, packaging materials, packing materials, indirect materials, and third country transportation. The basic rules of origin in Chapter Three of the SFTA are set forth in General Note 25, HTSUS.

Section B of Chapter Three sets forth the procedural and recordkeeping requirements that apply under the SFTA, in particular with regard to claims for preferential tariff treatment; Section C sets forth consultation mechanisms among the parties; and Section D lists the definitions to be used within the context of the rules of origin in the Chapter.

Chapter Four sets forth the customs operational provisions related to the implementation and continued administration of the SFTA.

Chapter Five sets forth the measures relating to trade in textile and apparel goods between Singapore and the United States under the SFTA.

In order to provide transparency and facilitate their use, the majority of the SFTA implementing regulations set forth in this document have been included within new Subpart I in Part 10 of the CBP regulations (19 CFR Part 10). However, in those cases in which SFTA implementation is more appropriate in the context of an existing regulatory provision, the SFTA regulatory text has been incorporated in an existing Part within the CBP regulations. In addition, this document sets forth a number of cross-references and other consequential changes to existing regulatory provisions to clarify the relationship between those existing provisions and the new SFTA implementing regulations. The

regulatory changes are discussed below in the order in which they appear in this document.

III. Discussion of Amendments

Part 10

Section 10.31(f) concerns temporary importations under bond. It is amended by adding references to certain goods originating in Singapore for which, like goods originating in Canada, Mexico and Chile, no bond or other security will be required when imported temporarily for prescribed uses. The provisions of SFTA Article 2.5 (temporary admission of goods) are already reflected in existing temporary importation bond or other provisions contained in Part 10 of the CBP regulations and in Chapter 98 of the HTSUS.

Part 10, Subpart I

General Provisions

Section 10.501 outlines the scope of new Subpart I, Part 10 of the CBP regulations. This section also clarifies that, except where the context otherwise requires, the requirements contained in Subpart I, Part 10 are in addition to general administrative and enforcement provisions set forth elsewhere in the CBP regulations. Thus, for example, the specific merchandise entry requirements contained in Subpart I, Part 10 are in addition to the basic entry requirements contained in Parts 141–143 of the CBP regulations.

Section 10.502 sets forth definitions of common terms used in multiple contexts or places within Subpart I, Part 10. Although the majority of the definitions in this section are based on definitions contained in Articles 1.2, 3.19, and 5.11 and Annex 1A of the SFTA, and § 3 of the Act, other definitions have also been included to clarify the application of the regulatory texts. Additional definitions which apply in a more limited Subpart I, Part 10 context are set forth elsewhere with the substantive provisions to which they relate.

Import Requirements

Section 10.510 sets forth the procedure for claiming SFTA preferential treatment at the time of entry and, as provided in SFTA Article 3.13, states that an importer may make a claim for SFTA preferential treatment based on the importer's knowledge or information in the importer's possession that the good qualifies as an originating good. Section 10.510 also reflects that portion of SFTA Article 3.14 which requires an importer to promptly correct an invalid claim for preferential treatment in order to avoid being subject to penalties.

Unlike certain other free trade agreements to which the United States is a Party, such as the North American Free Trade Agreement (NAFTA) and the United States-Chile Free Trade Agreement (US–CFTA), the SFTA does not specify a procedure for making a post-importation claim. However, nothing in the SFTA or the Act bars an adjustment prior to liquidation to recognize a claim for SFTA benefits. Therefore, Subpart I, Part 10 contains no regulatory provisions governing such claims. However, a protest against an alleged error in the liquidation of an entry may be brought under the normal procedures to contest a denial of SFTA benefits (*see* Part 174, CBP regulations (19 CFR Part 174)).

Section 10.511, as provided in SFTA Article 3.13, requires a U.S. importer, upon request, to submit a supporting statement setting forth the reasons that the good qualifies as an SFTA originating good, in connection with the claim. Section 10.512 sets forth certain importer obligations regarding the truthfulness of information and documents submitted in support of a claim for preferential treatment.

Section 10.513 provides that the importer's supporting statement is not required for certain non-commercial or low-value importations.

Section 10.514 implements SFTA Article 3.15 concerning the maintenance of relevant records regarding the imported good.

Section 10.515, which is based on SFTA Article 3.14, authorizes the denial of SFTA tariff benefits if the importer fails to comply with any of the requirements under Subpart I, Part 10, CBP regulations.

Tariff Preference Level

Sections 10.520 and 10.521, which are based on SFTA Article 2.12, specify the cotton and man-made fiber apparel goods for which an importer may claim preferential tariff treatment under a tariff preference level (TPL), and explain the procedure for making such claims. Section 10.522 provides that a TPL claim must be accompanied by a certificate of eligibility issued by the Government of Singapore.

Rules of Origin

Sections 10.530 through 10.543 provide the implementing regulations regarding the rules of origin provisions of HTSUS General Note 25, SFTA Chapter Three, and section 202 of the Act.

Definitions

Section 10.530 sets forth terms that are defined for purposes of the rules of origin.

General Rules of Origin

Section 10.531 sets forth the basic rules of origin established in Chapter Three of the SFTA, section 202(a) of the Act, and General Note 25(b), HTSUS. The provisions of § 10.531 apply both to the determination of the status of an imported good as an originating good for purposes of preferential tariff treatment and to the determination of the status of a material as an originating material used in a good which is subject to a determination under General Note 25, HTSUS. Section 10.531(a) specifies those goods that are originating goods because they are wholly obtained or produced entirely in the territory of one or both of the Parties.

Section 10.531(b) provides that goods that have been produced in the territory of one or both of the Parties so that each non-originating material undergoes an applicable change in tariff classification and satisfies any applicable regional value content or other requirement set forth in General Note 25(o), are originating goods. Essential to the rules in § 10.531(b) are the specific rules of General Note 25(o), HTSUS, which are incorporated by reference.

Section 10.531(c) provides originating status for goods of the SFTA Integrated Sourcing Initiative ("ISI"). Goods eligible for originating status under the ISI are information technology goods listed in Annex 3B of the Agreement and General Note 25(m), HTSUS. These are goods for which the current U.S. Normal Trade Relations (Most-Favored Nation) duty rate is zero. The SFTA ISI arrangement provides not only the zero rate of duty for these goods, but also exempts them, regardless of their origin under any other rule, from the Merchandise Processing Fee. This treatment is afforded to goods that, in their condition as imported into the United States, are enumerated in General Note 25(m), HTSUS, and are imported from the territory of Singapore. However, ISI goods may not be counted as originating materials when used to produce other goods in Singapore unless either another rule of origin is satisfied or the ISI goods are imported into Singapore from the United States prior to being used in the production of other goods in Singapore.

Section 10.532 specifies the requirements for a good to be treated as an originating good under the ISI and the limitations on the treatment of an ISI good as an originating material when

used in the production of another good in Singapore.

De Minimis

Section 10.533 sets forth *de minimis* rules for goods that may be considered to qualify as originating goods even though they fail to qualify as originating goods under the rules in § 10.531.

Accumulation

Section 10.534 sets forth the rule by which originating materials from the territory of Singapore or the United States that are used in the production of a good in the territory of the other country will be considered to originate in the territory of such other country. In addition, this section also establishes that a good that is produced by one or more producers in the territory of Singapore or the United States, or both, is an originating good if the good satisfies all of the applicable requirements of the rules of origin of the SFTA.

Value Content

Section 10.535 sets forth the basic rules which apply for purposes of determining whether an imported good satisfies a minimum regional value content ("RVC") requirement. Section 10.536 sets forth the rules for determining the value of a material for purposes of calculating the regional value content of a good as well as for purposes of applying the *de minimis* rules.

Accessories, Spare Parts, or Tools

Section 10.537 specifies the conditions under which a good's standard accessories, spare parts, or tools are (1) treated as originating goods and (2) disregarded in determining whether all non-originating materials undergo an applicable change in tariff classification under General Note 25(o), HTSUS.

Fungible Goods and Materials

Section 10.538 sets forth the rules by which "fungible" goods or materials may be claimed as originating.

Packaging Materials and Packing Materials

Sections 10.539 and 10.540 provide that retail packaging materials and packing materials for shipment are to be disregarded with respect to their actual origin in determining whether non-originating materials undergo an applicable change in tariff classification under General Note 25(o), HTSUS. These sections also set forth the treatment of packaging and packing materials for purposes of the regional value content requirement of the note.

Indirect Materials

Section 10.541 provides that indirect materials, as defined in § 10.502(j), are considered to be originating materials without regard to where they are produced.

Third Country Transportation

Section 10.542 sets forth the rule that an originating good loses its originating status and is treated as a non-originating good if, subsequent to the production in a SFTA country that qualifies the good as originating, the good undergoes production in a territory outside that of a SFTA country.

Certain Apparel Goods Made from Fabric or Yarn in Short Supply

Section 10.543 provides for an exception to the basic rules of origin set forth in § 10.531 in the case of certain apparel goods made from fabric or yarn that is not available in commercial quantities. This section states that an apparel article classified in Chapter 61 or 62 of the HTSUS is considered originating if cut (or knit to shape) and assembled in one or both of the Parties from fabric or yarn, regardless of origin, that has been designated by the Committee for the Implementation of Textile Agreements ("CITA") as not available in commercial quantities in a timely manner in the United States. The designations by CITA must have been made by notices published in the **Federal Register** no later than November 15, 2002.

Origin Verifications and Determinations

Sections 10.550 and 10.551 implement the provisions of SFTA Articles 3.14 and 3.16 which concern the conduct of verifications to determine whether imported goods are originating goods entitled to SFTA preferential duty treatment and the issuance and application of origin determinations resulting from such verifications. These sections also govern the conduct of verifications directed to producers of materials that are used in the production of a good for which SFTA preferential duty treatment is claimed.

Section 10.551 provides the procedures that apply when preferential tariff treatment is denied on the basis of an origin verification conducted under this subpart.

Sections 10.552 through 10.554, which are based on Articles 5.4 and 5.5 of the SFTA, set forth provisions relating to information sharing by CBP, site visits, and enforcement in regard to trade in textile and apparel goods.

Penalties

Section 10.560 concerns the general application of penalties to SFTA transactions and is based on SFTA Article 4.7.

Section 10.561 reflects SFTA Article 3.14 with regard to exceptions to the application of penalties in the case of an importer who promptly and voluntarily makes a corrected claim and pays any duties owing. The SFTA's exception to the application of penalties is contingent upon the importer correcting the claim and paying any duties owing within a period, determined by each importing Party, that may not be less than one year from submission of the invalid claim. Section 10.562 sets a period within which a corrected claim enjoys the exception from penalties in § 10.561 at one year, and also extends § 10.561 to any corrected claim made after the one-year period, if made (1) before the commencement of a formal investigation, or (2) before any of the events specified in § 162.74(i) of this chapter has occurred, or (3) within 30 days after the importer becomes aware that the claim is not valid. Corrected claims that fail to meet these requirements are not excepted from penalties, although the importer making the corrected claim may, depending on the circumstances, qualify for a reduced penalty as a prior disclosure under 19 U.S.C. 1592(c)(4).

Goods Returned After Repair or Alteration

Section 10.570 implements SFTA Article 2.6 regarding duty-free treatment for goods re-entered after repair or alteration in Singapore.

Part 24

An amendment is made to § 24.23(c), which concerns the merchandise processing fee, to implement Article 2.8 of the SFTA and § 203 of the Act, to provide that the merchandise processing fee is not applicable to goods that qualify as originating goods under the SFTA.

Part 162

Part 162 contains regulations regarding the inspection and examination of, among other things, imported merchandise. A cross-reference is added to § 162.0, which is the scope section of the part, to refer readers to the additional SFTA records maintenance and examination provisions contained in new Subpart I, Part 10, HTSUS.

Part 163

A conforming amendment is made to § 163.1 to include the completion of the SFTA importer's supporting statement and any other supporting documentation pursuant to the SFTA as activities for which records must be maintained. Also, the list appearing in the Appendix to Part 163 (commonly known as the (a)(1)(A) list) is amended to add: (1) The SFTA importer's supporting statement and any other supporting documentation; and (2) the SFTA TPL Certificate of Eligibility.

Part 178

Part 178 sets forth the control numbers assigned to information collections of CBP by the Office of Management and Budget, pursuant to the Paperwork Reduction Act of 1995, Pub. L. 104–13. The list contained in § 178.2 is amended to add the information collections used by CBP to determine eligibility for a tariff preference or other rights or benefits under the SFTA and the Act.

IV. Inapplicability of Notice and Delayed Effective Date Requirements

Under the Administrative Procedure Act ("APA") (5 U.S.C. 553), agencies generally are required to publish a notice of proposed rulemaking in the **Federal Register** that solicits public comment on the proposed regulatory amendments, consider public comments in deciding on the content of the final amendments, and publish the final amendments at least 30 days prior to their effective date. However, section 553(a)(1) of the APA provides that the standard prior notice and comment procedures and delayed effective date provisions of 5 U.S.C. 553(d) do not apply to an agency rulemaking to the extent that it involves a foreign affairs function of the United States. CBP has determined that these interim regulations involve a foreign affairs function of the United States because they implement preferential tariff treatment and related provisions of the SFTA. Therefore, the rulemaking requirements under the APA do not apply and this interim rule will be effective upon publication.

V. Executive Order 12866 and Regulatory Flexibility Act

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States and implements an international agreement, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866. Because a notice of proposed rulemaking is not required under section 553(b) of the APA for the reasons described above, CBP notes that the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply to this rulemaking. Accordingly, CBP also notes that this interim rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

VI. Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the APA, as described above. For this reason, the collections of information contained in these regulations have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0117.

The collections of information in these regulations are in §§ 10.510 and 10.511. This information is required in connection with claims for preferential tariff treatment and for the purpose of the exercise of other rights under the SFTA and the Act and will be used by CBP to determine eligibility for a tariff preference or other rights or benefits under the SFTA and the Act. The likely respondents are business organizations including importers, exporters and manufacturers.

Estimated total annual reporting burden: 9,000 hours.

Estimated average annual burden per respondent: 0.2 hours.

Estimated number of respondents: 45,000.

Estimated annual frequency of responses: 1.

Comments concerning the collections of information and the accuracy of the estimated annual burden, and suggestions for reducing that burden, should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

VII. Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain CBP revenue functions.

List of Subjects

19 CFR Part 10

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements (United States-Singapore Free Trade Agreement).

19 CFR Part 24

Accounting, Customs duties and inspection, Financial and accounting procedures, Reporting and recordkeeping requirements, Trade agreements, User fees.

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Penalties, Trade agreements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, chapter I of title 19, Code of Federal Regulations (19 CFR chapter I), is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 1. The general authority citation for part 10 continues to read and the specific authority for new Subpart I is added to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

Sections 10.501 through 10.570 also issued under 19 U.S.C. 1202 (General Note 25, HTSUS) and Pub. L. 108–78, 117 Stat. 948 (19 U.S.C. 3805 note).

■ 2. In § 10.31, paragraph (f), the last sentence is revised to read as follows:

§ 10.31 Entry; bond.

* * * * *

(f) * * * In addition, notwithstanding any other provision of this paragraph, in the case of professional equipment necessary for carrying out the business

activity, trade or profession of a business person, equipment for the press or for sound or television broadcasting, cinematographic equipment, articles imported for sports purposes and articles intended for display or demonstration, if brought into the United States by a resident of Canada, Mexico, Chile, or Singapore and entered under Chapter 98, Subchapter XIII, HTSUS, no bond or other security will be required if the entered article is a good originating in Canada, Mexico, Chile, or Singapore within the meaning of General Notes 12, 25, and 26, HTSUS.

* * * * *

§ 10.36a [Amended]

■ 3. In § 10.36a, the first sentence of paragraph (a) is amended by removing the words "(as defined in §§ 10.8, 10.490 and 181.64 of this chapter)" and adding, in their place, the words "(as defined in §§ 10.8, 10.490, 10.570, and 181.64 of this chapter)".

■ 4. Part 10, CBP regulations, is amended by adding a new Subpart I to read as follows:

Subpart I—United States–Singapore Free Trade Agreement

General Provisions

Sec.
10.501 Scope.
10.502 General definitions.

Import Requirements

10.510 Filing of claim for preferential tariff treatment upon importation.
10.511 Supporting statement.
10.512 Importer obligations.
10.513 Supporting statement not required.
10.514 Maintenance of records.
10.515 Effect of noncompliance; failure to provide documentation regarding third country transportation.

Tariff Preference Level

10.520 Filing of claim for tariff preference level.
10.521 Goods eligible for tariff preference level claims.
10.522 Submission of certificate of eligibility.

Rules of Origin

10.530 Definitions.
10.531 Originating goods.
10.532 Integrated Sourcing Initiative.
10.533 De minimis.
10.534 Accumulation.
10.535 Regional value content.
10.536 Value of materials.
10.537 Accessories, spare parts, or tools.
10.538 Fungible goods and materials.
10.539 Retail packaging materials and containers.
10.540 Packing materials and containers for shipment.
10.541 Indirect materials.
10.542 Third country transportation.
10.543 Certain apparel goods made from fabric or yarn not available in commercial quantities.

Origin Verifications and Determinations

10.550 Verification and justification of claim for preferential treatment.
10.551 Issuance of negative origin determinations.
10.552 Information sharing by CBP regarding textile and apparel goods produced in the United States.
10.553 Textile and apparel site visits.
10.554 Exclusion of textile or apparel goods for intentional circumvention.

Penalties

10.560 General.
10.561 Corrected claim or supporting statement.
10.562 Framework for correcting claims or supporting statements.

Goods Returned After Repair or Alteration

10.570 Goods re-entered after repair or alteration in Singapore.

Subpart I—United States-Singapore Free Trade Agreement

General Provisions

§ 10.501 Scope.

This subpart implements the duty preference and related customs provisions applicable to imported goods under the United States-Singapore Free Trade Agreement (the SFTA) signed on May 6, 2003, and under the United States-Singapore Free Trade Agreement Implementation Act (the Act; 117 Stat. 948). Except as otherwise specified in this subpart, the procedures and other requirements set forth in this subpart are in addition to the customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the SFTA and the Act are contained in Parts 24, 162, and 163 of this chapter.

§ 10.502 General definitions.

As used in this subpart, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular section of this subpart:

(a) *Claim for preferential tariff treatment.* "Claim for preferential tariff treatment" means a claim that a good is entitled to the duty rate applicable under the SFTA to an originating good or other good specified in the SFTA, and to an exemption from the merchandise processing fee;

(b) *Customs duty.* "Customs duty" includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but, for purposes of implementing the SFTA, does not include any:

(1) Charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994 in respect of the like domestic good or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(2) Antidumping or countervailing duty that is applied pursuant to a Party's domestic law;

(3) Fee or other charge in connection with importation commensurate with the cost of services rendered; or

(4) Duty imposed pursuant to Article 5 of the WTO Agreement on Agriculture.

(c) *Customs Valuation Agreement.* "Customs Valuation Agreement" means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, which is part of the WTO Agreement;

(d) *Days.* "Days" means calendar days;

(e) *Enterprise.* "Enterprise" means an entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture, or other association;

(f) *GATT 1994.* "GATT 1994" means the *General Agreement on Tariffs and Trade 1994*, which is part of the *WTO Agreement*;

(g) *Harmonized System.* "Harmonized System (HS)" means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

(h) *Heading.* "Heading" means the first four digits in the tariff classification number under the Harmonized System;

(i) *HTSUS.* "HTSUS" means the *Harmonized Tariff Schedule of the United States* as promulgated by the U.S. International Trade Commission;

(j) *Indirect material.* "Indirect material" means a good used in the production, testing, or inspection of a good in the territory of the United States or Singapore but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good in the territory of the United States or Singapore, including:

(1) Fuel and energy;

(2) Tools, dies, and molds;

(3) Spare parts and materials used in the maintenance of equipment and buildings;

(4) Lubricants, greases, compounding materials, and other materials used in production or used to operate equipment and buildings;

(5) Gloves, glasses, footwear, clothing, safety equipment, and supplies;

(6) Equipment, devices, and supplies used for testing or inspecting the good;

(7) Catalysts and solvents; and

(8) Any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production;

(k) *Originating.* "Originating" means qualifying for preferential tariff treatment under the rules of origin set out in SFTA Chapter Three (Rules of Origin) and General Note 25, HTSUS;

(l) *Party.* "Party" means the United States or the Republic of Singapore;

(m) *Person.* "Person" means a natural person or an enterprise;

(n) *Preferential tariff treatment.* "Preferential tariff treatment" means the duty rate applicable under the SFTA to an originating good, and an exemption from the merchandise processing fee;

(o) *Subheading.* "Subheading" means the first six digits in the tariff classification number under the Harmonized System;

(p) *Tariff preference level.* "Tariff preference level" means a quantitative limit for certain non-originating textiles and textile apparel goods that may be entitled to preferential tariff treatment based on the goods meeting the production requirements set forth in § 10.521 of this subpart;

(q) *Textile or apparel good.* "Textile or apparel good" means a good listed in the Annex to the Agreement on Textiles and Clothing (commonly referred to as "the ATC"), which is part of the WTO Agreement;

(r) *Territory.* "Territory" means:

(1) With respect to Singapore, its land territory, internal waters and territorial sea as well as the maritime zones beyond the territorial sea, including the seabed and subsoil over which the Republic of Singapore exercises sovereign rights or jurisdiction under its national laws and international law for the purpose of exploration and exploitation of the natural resources of such areas; and

(2) With respect to the United States;

(i) The customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico;

(ii) The foreign trade zones located in the United States and Puerto Rico; and

(iii) Any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise rights with respect to the seabed and subsoil and their natural resources; and

(s) *WTO Agreement.* "WTO Agreement" means the *Marrakesh Agreement Establishing the World Trade Organization* of April 15, 1994.

Import Requirements

§ 10.510 Filing of claim for preferential tariff treatment upon importation.

(a) *Claim.* An importer may make a claim for SFTA preferential tariff treatment, including an exemption from the merchandise processing fee, based on the importer's knowledge or information in the importer's possession that the good qualifies as an originating good. For goods that qualify as originating goods under the Integrated Sourcing Initiative (*see* subdivisions (b)(ii) and (m) of General Note 25, HTSUS, and § 10.532 of this subpart), the claim is made by including on the entry summary, or equivalent documentation, the tariff item 9999.00.84, HTSUS, or by the method specified for equivalent reporting via an authorized electronic data interchange system. For all other qualifying goods, the claim is made by including on the entry summary, or equivalent documentation, the letters "SG" as a prefix to the subheading of the HTSUS under which each qualifying good is classified, or by the method specified for equivalent reporting via an authorized electronic data interchange system.

(b) *Corrected claim.* If, after making the claim required under paragraph (a) of this section, the importer becomes aware that the claim is invalid, the importer must promptly correct the claim and pay any duties that may be due. The importer must submit a statement either in writing or via an authorized electronic data interchange system to the CBP office where the original claim was filed specifying the correction (*see* §§ 10.561 and 10.562 of this subpart).

§ 10.511 Supporting statement.

(a) *Contents.* An importer who makes a claim under § 10.510(a) of this subpart must submit, at the request of the port director, a statement setting forth the reasons that the good qualifies as an originating good, including pertinent cost and manufacturing data. A statement submitted to CBP under this paragraph:

(1) Need not be in a prescribed format but must be in writing or must be transmitted electronically pursuant to any electronic means authorized by CBP for that purpose;

(2) Must include the following information:

(i) The legal name, address, telephone, and e-mail address (if any) of the importer of record of the good;

(ii) The legal name, address, telephone, and e-mail address (if any) of the responsible official or authorized agent of the importer signing the supporting statement (if different from the information required by paragraph (a)(2)(i) of this section);

(iii) The legal name, address, telephone, and e-mail address (if any) of the exporter of the good (if different from the producer);

(iv) The legal name, address, telephone, and e-mail address (if any) of the producer of the good (if known);

(v) A description of the good for which preferential tariff treatment is claimed, which must be sufficiently detailed to relate it to the invoice and the HS nomenclature;

(vi) The HTSUS tariff classification, to six or more digits, as necessary for the specific change in tariff classification rule for the good set forth in General Note 25(o), HTSUS;

(vii) The applicable rule of origin set forth in General Note 25, HTSUS, under which the good qualifies as an originating good; and

(3) Must include a statement, in substantially the following form:

I certify that:

The information on this document is true and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document;

I agree to maintain and present upon request, documentation necessary to support these representations;

The goods originated or are considered to have originated in the territory of one or more of the Parties, and comply with the origin requirements specified for those goods in the United States-Singapore Free Trade Agreement; there has been no further production or any other operation outside the territories of the parties, other than unloading, reloading, or any other operation necessary to preserve the goods in good condition or to transport the goods to the United States; and

This document consists of _____ pages, including all attachments."

(b) *Responsible official or agent.* The supporting statement required to be submitted under paragraph (a) of this section must be signed and dated by a responsible official of the importer or by the importer's authorized agent having knowledge of the relevant facts.

(c) *Language.* The supporting statement required to be submitted

under paragraph (a) of this section must be completed in the English language.

(d) *Applicability of supporting statement.* The supporting statement required to be submitted under paragraph (a) of this section may be applicable to:

(1) A single importation of a good into the United States, including a single shipment that results in the filing of one or more entries and a series of shipments that results in the filing of one entry; or

(2) Multiple importations of identical goods into the United States that occur within a specified blanket period, not exceeding 12 months, set out in the statement. For purposes of this paragraph, "identical goods" means goods that are the same in all respects relevant to the particular rule of origin that qualifies the goods as originating.

§ 10.512 Importer obligations.

(a) *General.* An importer who makes a claim under § 10.510(a) of this subpart is responsible for the truthfulness of the claim and of all the information and data contained in the supporting statement provided for in § 10.511 of this subpart, for submitting any supporting documents requested by CBP, and for the truthfulness of the information contained in those documents. However, an importer will not be subject to civil or administrative penalties under 19 U.S.C. 1592 for making an invalid claim for preferential tariff treatment or submitting an incorrect supporting statement, provided that the importer promptly and voluntarily corrects the claim or supporting statement and pays any duty owing (*see* §§ 10.561 and 10.562 of this subpart). In instances in which CBP requests the submission of supporting documents, CBP will allow for the direct submission by the exporter or producer of business confidential or other sensitive information, including cost and sourcing information.

(b) *Compliance.* In order to make a claim for preferential tariff treatment under § 10.510(a) of this subpart, the importer:

(1) Must have records that explain how the importer came to the conclusion that the good qualifies for preferential tariff treatment. Those records must include documents that support a claim that the article in question qualifies for preferential tariff treatment because it meets the applicable rules of origin set forth in General Note 25, HTSUS, and in this subpart. Those records may include a properly completed importer's supporting statement as set forth in § 10.511 of this subpart; and

(2) May be required to present evidence that the conditions set forth in § 10.542 of this subpart were met if the imported article was shipped through an intermediate country.

(c) *Information provided by exporter or producer.* The fact that the importer has made a claim or supporting statement based on information provided by an exporter or producer will not relieve the importer of the responsibility referred to in the first sentence of paragraph (a) of this section.

§ 10.513 Supporting statement not required.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, an importer will not be required to submit a supporting statement under § 10.511 of this subpart for:

(1) A non-commercial importation of a good; or

(2) A commercial importation for which the value of the goods does not exceed U.S. $2,500.

(b) *Exception.* If the port director determines that an importation described in paragraph (a) of this section may reasonably be considered to have been carried out or planned for the purpose of evading compliance with the rules and procedures governing claims for preference under the SFTA, the port director will notify the importer that for that importation the importer must submit to CBP a supporting statement. The importer must submit such a statement within 30 days from the date of the notice. Failure to timely submit the supporting statement will result in denial of the claim for preferential treatment.

§ 10.514 Maintenance of records.

(a) *General.* An importer claiming preferential tariff treatment for a good imported into the United States under § 10.510(a) of this subpart must maintain, for five years after the date of importation of the good, any records and documents that the importer has relating to the origin of the good, including records and documents associated with:

(1) The purchase of, cost of, value of, and payment for, the good;

(2) Where appropriate, the purchase of, cost of, value of, and payment for, all materials, including recovered goods and indirect materials, used in the production of the good; and

(3) Where appropriate, the production of the good in the form in which the good was exported.

(b) *Applicability of other recordkeeping requirements.* The records and documents referred to in paragraph (a) of this section are in addition to any other records that the importer is required to prepare, maintain, or make available to CBP under Part 163 of this chapter.

(c) *Method of maintenance.* The records and documents referred to in paragraph (a) of this section must be maintained by importers as provided in § 163.5 of this chapter.

§ 10.515 Effect of noncompliance; failure to provide documentation regarding third country transportation.

(a) *Effect of noncompliance.* If the importer fails to comply with any requirement under this subpart, including submission of a complete supporting statement under § 10.511 of this subpart, when requested, the port director may deny preferential treatment to the imported good.

(b) *Failure to provide documentation regarding third country transportation.* Where the requirements for preferential treatment set forth elsewhere in this subpart are met, the port director nevertheless may deny preferential treatment to an originating good if the good is shipped through or transshipped in a country other than Singapore or the United States, and the importer of the good does not provide, at the request of the port director, evidence demonstrating to the satisfaction of the port director that the conditions set forth in § 10.542 of this subpart were met.

Tariff Preference Level

§ 10.520 Filing of claim for tariff preference level.

A cotton or man-made fiber apparel good described in § 10.521 of this subpart that does not qualify as an originating good under § 10.531 of this subpart may nevertheless be entitled to preferential tariff treatment under the SFTA under an applicable tariff preference level (TPL). To make a TPL claim, the importer must include on the entry summary, or equivalent documentation, the applicable tariff item in Chapter 99 of the HTSUS (9910.61.01 through 9910.61.89) and the applicable subheading in Chapter 61 or 62 of the HTSUS under which each non-originating cotton or man-made fiber apparel good is classified. For TPL goods, the letters "SG" must be inserted as a prefix to the applicable HTSUS 9910 tariff item when the entry is filed. The importer must also submit a certificate of eligibility as set forth in § 10.522 of this subpart.

§ 10.521 Goods eligible for tariff preference level claims.

Goods eligible for a TPL claim consist of cotton or man-made fiber apparel

goods provided for in Chapters 61 and 62 of the HTSUS that are both cut (or knit-to-shape) and sewn or otherwise assembled in Singapore from fabric or yarn produced or obtained outside the territory of Singapore or the United States, and that meet the applicable conditions for preferential tariff treatment under the SFTA, other than the condition that they are originating goods. The preferential tariff treatment is limited to the quantities specified in U.S. Note 13, Subchapter X, Chapter 99, HTSUS.

§ 10.522 Submission of certificate of eligibility.

An importer who claims preferential tariff treatment on a non-originating cotton or man-made fiber apparel good must submit a certificate of eligibility issued by the Government of Singapore, demonstrating that the good is eligible for entry under the applicable TPL, as set forth in § 10.521 of this subpart.

Rules of Origin

§ 10.530 Definitions.

For purposes of §§ 10.530 through 10.542:

(a) *Adjusted value.* "Adjusted value" means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, adjusted, if necessary, to exclude:

(1) Any costs, charges, or expenses incurred for transportation, insurance and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation; and

(2) The value of packing materials and containers for shipment as defined in paragraph (j) of this section;

(b) *Exporter.* "Exporter" means a person who exports goods from the territory of a Party;

(c) *Fungible goods or materials.* "Fungible goods or materials" means goods or materials, as the case may be, that are interchangeable for commercial purposes and the properties of which are essentially identical;

(d) *Generally Accepted Accounting Principles.* "Generally Accepted Accounting principles" means the recognized consensus or substantial authoritative support in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices, and procedures;

(e) *Good.* "Good" means any merchandise, product, article, or material;

(f) *Goods wholly obtained or produced entirely in the territory of one or both of the Parties.* "Goods wholly obtained or produced entirely in the territory of one or both of the Parties" means:

(1) Mineral goods extracted in the territory of one or both of the Parties;

(2) Vegetable goods, as such goods are defined in the Harmonized System, harvested in the territory of one or both of the Parties;

(3) Live animals born and raised in the territory of one or both of the Parties;

(4) Goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of one or both of the Parties;

(5) Goods (fish, shellfish and other marine life) taken from the sea by vessels registered or recorded with a Party and flying its flag;

(6) Goods produced exclusively from products referred to in subparagraph (f)(5) of this section on board factory ships registered or recorded with a Party and flying its flag;

(7) Goods taken by a Party or a person of a Party from the seabed or beneath the seabed outside territorial waters, provided that a Party has rights to exploit such seabed;

(8) Goods taken from outer space, provided they are obtained by a Party or a person of a Party and not processed in the territory of a non-Party;

(9) Waste and scrap derived from:

(i) Production in the territory of one or both of the Parties; or

(ii) Used goods collected in the territory of one or both of the Parties, provided such goods are fit only for the recovery of raw materials;

(10) Recovered goods derived in the territory of one or both of the Parties from used goods; or

(11) Goods produced in one or both of the Parties exclusively from goods referred to in paragraphs (f)(1) through (f)(9) of this section or from the derivatives of such goods;

(g) *Material.* "Material" means a good that is used in the production of another good;

(h) *Non-originating good.* "Non-originating good" means a good that does not qualify as originating under General Note 25, HTSUS;

(i) *Non-originating material.* "Non-originating material" means a material that does not qualify as originating under General Note 25, HTSUS;

(j) *Packing materials and containers for shipment.* "Packing materials and containers for shipment" means the goods used to protect a good during its transportation to the United States, and does not include the packaging materials and containers in which a good is packaged for retail sale;

(k) *Producer.* "Producer" means a person who grows, raises, mines, harvests, fishes, traps, hunts, manufactures, processes, assembles or disassembles a good;

(l) *Production.* "Production" means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good;

(m) *Recovered goods.* "Recovered goods" means materials in the form of individual parts that are the result of:

(1) The complete disassembly of used goods into individual parts; and

(2) The cleaning, inspecting, testing, or other processing of those parts as necessary for improvement to sound working condition by one or more of the following processes: Welding, flame spraying, surface machining, knurling, plating, sleeving, and rewinding, in order for such parts to be assembled with other parts, including other recovered parts, in the production of a remanufactured good as defined in paragraph (o) of this section;

(n) *Relationship.* "Relationship" means whether the buyer and seller are related parties in accordance with Article 15.4 of the Customs Valuation Agreement;

(o) *Remanufactured good.* "Remanufactured good" means an industrial good assembled in the territory of Singapore or the United States that is enumerated in Annex 3C, SFTA, and:

(1) Is entirely or partially comprised of recovered goods;

(2) Has the same life expectancy and meets the same performance standards as a new good; and

(3) Enjoys the same factory warranty as such a new good;

(p) *Self-produced material.* "Self-produced material" means a good, such as a part or ingredient, produced by the producer and used by the producer in the production of another good; and

(q) *Value.* "Value" means the value of a good or material for purposes of calculating customs duties or for purposes of applying this subpart.

§ 10.531 Originating goods.

Except as provided in § 10.543 of this subpart, a good imported into the customs territory of the United States will be considered an originating good under the SFTA only if:

(a) The good is wholly obtained or produced entirely in the territory of one or both of the Parties;

(b) The good is transformed in one or both of the Parties so that:

(1) Each non-originating material undergoes an applicable change in tariff classification specified in General Note 25(o), HTSUS, as a result of production occurring entirely in the territory of one or both of the Parties; and

(2) The good otherwise satisfies any applicable regional value content or other requirements specified in General Note 25(o), HTSUS; or

(c) The good, in its condition as imported into the United States, is enumerated as an Integrated Sourcing Initiative good in General Note 25(m), HTSUS, and is imported from the territory of Singapore.

§ 10.532 Integrated Sourcing Initiative.

(a) For purposes of General Note 25(b)(ii), HTSUS, a good is eligible for treatment as an originating good under the Integrated Sourcing Initiative if:

(1) The good, in its condition as imported, is both classified in a tariff provision enumerated in the first column of General Note 25(m), HTSUS, and described opposite that tariff provision in the list of information technology articles set forth in the second column of General Note 25(m), HTSUS;

(2) The good, regardless of its origin, is imported into the territory of the United States from the territory of Singapore. If a product of a non-Party, the good must have been imported into Singapore prior to its importation into the territory of the United States; and

(3) The good satisfies the conditions and requirements of § 10.542 relating to third country transportation.

(b) A good enumerated in General Note 25(m), HTSUS, that is used in the production of another good in Singapore will not be considered an originating material for purposes of determining the eligibility for preferential tariff treatment of such other good unless:

(1) The good enumerated in General Note 25(m), HTSUS, satisfies an applicable rule of origin set out in General Note 25(o), HTSUS; or

(2) The good enumerated in General Note 25(m), HTSUS, is imported into the territory of Singapore from the territory of the United States prior to being used in the production of a good in Singapore.

§ 10.533 De minimis.

(a) Except as provided in paragraphs (b) and (c) of this section, a good that does not undergo a change in tariff classification pursuant to General Note 25(o), HTSUS, will nonetheless be considered to be an originating good if:

(1) The value of all non-originating materials used in the production of the good that do not undergo the applicable change in tariff classification does not exceed 10 percent of the adjusted value of the good;

(2) The value of the non-originating materials described in paragraph (a)(1) of this section is included in calculating the value of non-originating materials for any applicable regional value content requirement for the good under General Note 25(o), HTSUS; and

(3) The good meets all other applicable requirements of General Note 25, HTSUS.

(b) Paragraph (a) does not apply to:

(1) A non-originating material provided for in Chapter 4, HTSUS, or in subheading 1901.90, HTSUS, that is used in the production of a good provided for in Chapter 4, HTSUS;

(2) A non-originating material provided for in Chapter 4, HTSUS, or in subheading 1901.90, HTSUS, that is used in the production of a good provided for in one of the following HTSUS provisions: Subheading 1901.10, 1901.20 or 1901.90; heading 2105; or subheading 2106.90, 2202.90 or 2309.90;

(3) A non-originating material provided for in heading 0805, HTSUS, or subheadings 2009.11 through 2009.39, HTSUS, that is used in the production of a good provided for in subheadings 2009.11 through 2009.39, HTSUS, or in subheading 2106.90 or 2202.90, HTSUS;

(4) A non-originating material provided for in Chapter 15, HTSUS, that is used in the production of a good provided for in headings 1501 through 1508, 1512, 1514 or 1515, HTSUS;

(5) A non-originating material provided for in heading 1701, HTSUS, that is used in the production of a good provided for in headings 1701 through 1703, HTSUS;

(6) A non-originating material provided for in Chapter 17, HTSUS, or heading 1805, HTSUS, that is used in the production of a good provided for in subheading 1806.10, HTSUS;

(7) A non-originating material provided for in headings 2203 through 2208, HTSUS, that is used in the production of a good provided for in heading 2207 or 2208, HTSUS; and

(8) A non-originating material used in the production of a good provided for in Chapters 1 through 21, HTSUS, unless the non-originating material is provided for in a different subheading than the good for which origin is being determined.

(c) A textile or apparel good provided for in Chapters 50 through 63, HTSUS, that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in General Note 25(o), HTSUS, will nevertheless be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component. Notwithstanding the preceding sentence, a textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good will be considered an originating good only if such yarns are wholly formed in the territory of a Party.

§ 10.534 Accumulation.

(a) Originating materials of Singapore or the United States that are used in the production of a good in the territory of the other party will be considered to originate in the territory of the other party.

(b) A good that is produced in the territory of one or both of the Parties by one or more producers, will be considered an originating good if the good satisfies:

(1) The applicable requirements of § 10.531 of this subpart and General Note 25, HTSUS; or

(2) The provisions of § 10.532 of this subpart.

§ 10.535 Regional value content.

(a) *General.* Where General Note 25(o), HTSUS, sets forth a rule that specifies a regional value content test for a good, the regional value content of such good must be calculated, at the choice of the person claiming the preferential tariff treatment for such good, on the basis of the build-down method or the build-up method described in paragraphs (b) and (c) of this section, unless otherwise specified in General Note 25(o), HTSUS.

(b) *Build-down method.* Under the build-down method, the regional value content must be calculated on the basis of the formula $RVC = ((AV - VNM)/AV) \times 100$, where RVC is the regional value content, expressed as a percentage; AV is the adjusted value; and VNM is the value of non-originating materials that are acquired and used by the producer in the production of the good.

(c) *Build-up method.* Under the build-up method, the regional value content must be calculated on the basis of the formula $RVC = (VOM / AV) \times 100$, where RVC is the regional value content, expressed as a percentage; AV is the adjusted value; and VOM is the value of originating materials that are acquired or self-produced and used by the producer in the production of the good.

§ 10.536 Value of materials.

(a) *Calculating the value of materials.* Except as provided in § 10.541, for purposes of calculating the regional value content of a good under General Note 25(o), HTSUS, and for purposes of applying the *de minimis* (*see* § 10.533 of this subpart) provisions of General Note 25(o), HTSUS, the value of a material is:

(1) In the case of a material imported by the producer of the good, the adjusted value of the material;

(2) In the case of a material acquired by the producer in the territory where the good is produced, except for a material to which paragraph (a)(3) of this section applies, the adjusted value of the material with reasonable modifications to the provisions of the Customs Valuation Agreement so as to permit their application to the domestic acquisition by the producer. Such reasonable modifications include, but are not limited to, treating a domestic purchase by the producer as if it were a sale for export to the country of importation; or

Example 1. The producer in Singapore purchases material x from an unrelated seller in Singapore for $100. Under the provisions of Article 1 of the Customs Valuation Agreement, transaction value is the price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with the provisions of Article 8. In order to apply Article 1 to this domestic purchase by the producer, such purchase is treated as if it were a sale for export to the country of importation. Therefore, for purposes of determining the adjusted value of material x, Article 1 transaction value is the price actually paid or payable for the goods when sold to the producer in Singapore ($100), adjusted in accordance with the provisions of Article 8. In this example, it is irrelevant whether material x was initially imported into Singapore by the seller (or by anyone else). So long as the producer acquired material x in Singapore, it is intended that the value of material x will be determined on the basis of the price actually paid or payable by the producer adjusted in accordance with the provisions of Article 8.

Example 2. Same facts as in Example 1, except the sale between the seller and the producer is subject to certain restrictions that preclude the application of Article 1. Under Article 2 of the Customs Valuation Agreement, the value is the transaction value of identical goods sold for export to the same country of importation and exported at or about the same time as the goods being valued. In order to permit the application of Article 2 to the domestic acquisition by the producer, it should be modified so that the value is the transaction value of identical goods sold within Singapore at or about the same time the goods were sold to the producer in Singapore. Thus, if the seller of material x also sold an identical material to another buyer in Singapore without restrictions, that other sale would be used to determine the adjusted value of material x.

(3) In the case of a self-produced material, or in a case in which the relationship between the producer of the good and the seller of the material influenced the price actually paid or payable for the material, including a material obtained without charge, the sum of:

(i) All expenses incurred in the production of the material, including general expenses; and

(ii) A reasonable amount for profit.

(b) *Permissible additions to, and deductions from, the value of materials.* (1) *Additions to originating materials.* For originating materials, the following expenses, if not included under paragraph (a) of this section, may be added to the value of the originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer;

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable; and

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product; and

(2) *Deductions from non-originating materials.* For non-originating materials, if included under paragraph (a) of this section, the following expenses may be deducted from the value of the non-originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer;

(ii) Duties, taxes, and customs brokerage fees on the material paid in one or both of the Parties, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable;

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products;

(iv) The cost of processing incurred in the territory of Singapore or the United States in the production of the non-originating material; and

(v) The cost of originating materials used in the production of the non-originating material in the territory of Singapore or the United States.

(c) *Accounting method.* Any cost or value referenced in General Note 25, HTSUS and this subpart, must be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the territory of the country in which the good is produced (whether Singapore or the United States).

§ 10.537 Accessories, spare parts, or tools.

Accessories, spare parts, or tools that are delivered with a good and that form part of the good's standard accessories, spare parts, or tools will be treated as originating goods if the good is an originating good, and will be disregarded in determining whether all the non-originating materials used in the production of the good undergo an applicable change in tariff classification specified in General Note 25(o), HTSUS, provided that:

(a) The accessories, spare parts, or tools are not invoiced separately from the good;

(b) The quantities and value of the accessories, spare parts, or tools are customary for the good; and

(c) If the good is subject to a regional value content requirement, the value of the accessories, spare parts, or tools will be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good under § 10.535 of this subpart.

§ 10.538 Fungible goods and materials.

(a) A person claiming preferential treatment under the SFTA for a good may claim that a fungible good or material is originating either based on the physical segregation of each fungible good or material or by using an inventory management method. For purposes of this subpart, the term "inventory management method" means:

(1) Averaging;

(2) "Last-in, first-out;"

(3) "First-in, first-out;" or

(4) Any other method that is recognized in the Generally Accepted Accounting Principles of the Party in which the production is performed or otherwise accepted by that country.

(b) A person selecting an inventory management method under paragraph (a) of this section for particular fungible goods or materials must continue to use that method for those fungible goods or materials throughout the fiscal year of that person.

§ 10.539 Retail packaging materials and containers.

Packaging materials and containers in which a good is packaged for retail sale, if classified with the good for which

preferential treatment under the SFTA is claimed, will be disregarded in determining whether all non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in General Note 25(o), HTSUS. If the good is subject to a regional value content requirement, the value of such packaging materials and containers will be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

Example 1. Singaporean Producer A of good C imports 100 non-originating blister packages to be used as retail packaging for good C. As provided in § 10.536(a)(1) of this subpart, the value of the blister packages is their adjusted value, which in this case is $10. Good C has a regional value content requirement. The United States importer of good C decides to use the build-down method, RVC=((AV − VNM)/AV) × 100 (*see* § 10.535(b) of this subpart), in determining whether good C satisfies the regional value content requirement. In applying this method, the non-originating blister packages are taken into account as non-originating. As such, their $10 adjusted value is included in the VNM, value of non-originating materials, of good C.

Example 2. Same facts as in Example 1, but the blister packages are originating. In this case, the adjusted value of the originating blister packages would not be included as part of the VNM of good C under the build-down method. However, if the U.S. importer had used the build-up method, RVC=(VOM/AV) × 100 (*see* § 10.535(c) of this subpart), the adjusted value of the blister packaging would be included as part of the VOM, value of originating material.

§ 10.540 Packing materials and containers for shipment.

(a) Packing materials and containers for shipment, as defined in § 10.530(j) of this subpart, are to be disregarded in determining whether the non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in General Note 25(o), HTSUS. Accordingly, such materials and containers are not required to undergo the applicable change in tariff classification even if they are non-originating.

(b) Packing materials and containers for shipment, as defined in § 10.530(j) of this subpart, are to be disregarded in determining the regional value content of a good imported into the United States. Accordingly, in applying either the build-down or build-up method for determining the regional value content of the good imported into the United States, the value of such packing materials and containers for shipment (whether originating or non-originating) is disregarded and not included in AV, adjusted value, VNM, value of non-originating materials, or VOM, value of originating materials.

Example. Singaporean Producer A produces good C. Producer A ships good C to the U.S. in a shipping container which it purchased from Company B in Singapore. The shipping container is originating. The value of the shipping container determined under section § 10.536(a)(2) of this subpart is $3. Good C is subject to a regional value content requirement. The transaction value of good C is $100, which includes the $3 shipping container. The United States importer decides to use the build-up method, RVC=(VOM/AV) × 100 (*see* § 10.535(c) of this subpart), in determining whether good C satisfies the regional value content requirement. In determining the AV, adjusted value, of good C imported into the U.S., paragraph (b) of this section requires a $3 deduction for the value of the shipping container. Therefore, the AV is $97 ($100 − $3). In addition, the value of the shipping container is disregarded and not included in the VOM, value of originating materials.

§ 10.541 Indirect materials.

An indirect material, as defined in § 10.502(j) of this subpart, will be considered to be an originating material without regard to where it is produced, and its value will be the cost registered in the accounting records of the producer of the good.

Example. Singaporean Producer C produces good C using non-originating material A. Producer C imports non-originating rubber gloves for use by workers in the production of good C. Good C is subject to a tariff shift requirement. As provided in § 10.531(b)(1) of this subpart and General Note 25(o), each of the non-originating materials in good C must undergo the specified change in tariff classification in order for good C to be considered originating. Although non-originating material A must undergo the applicable tariff shift in order for good C to be considered originating, the rubber gloves do not because they are indirect materials and are considered originating without regard to where they are produced.

§ 10.542 Third country transportation.

(a) *General.* A good will not be considered an originating good by reason of having undergone production that would enable the good to qualify as an originating good if subsequent to that production the good undergoes further production or any other operation outside the territories of the Parties, other than unloading, reloading, or any other process necessary to preserve the good in good condition or to transport the good to the territory of a Party.

(b) *Documentary evidence.* An importer making a claim that a good is originating may be required to demonstrate, to CBP's satisfaction, that no further production or subsequent operation, other than permitted under paragraph (a) of this section, occurred outside the territories of the Parties. An importer may demonstrate compliance with this section by submitting documentary evidence. Such evidence may include, but is not limited to, bills of lading, airway bills, packing lists, commercial invoices, receiving and inventory records, and customs entry and exit documents.

§ 10.543 Certain apparel goods made from fabric or yarn not available in commercial quantities.

Notwithstanding the provisions of § 10.531 of this subpart, a textile apparel article of Chapter 61 or 62, HTSUS, will be considered an originating good under the SFTA if it is both cut (or knit to shape) and sewn or otherwise assembled in one or both of the Parties from fabric or yarn, regardless of origin, designated by the Committee for the Implementation of Textile Agreements ("CITA") as not available in commercial quantities in a timely manner in the United States. Such designations by CITA, identifying apparel goods made from such fabric or yarn as eligible for entry under subheading 9819.11.24 or 9820.11.27, HTSUS, must have been made by notices published in the **Federal Register** no later than November 15, 2002.[1] For purposes of this section, any reference in these notices to fabric or yarn formed in the United States will be interpreted as also including fabric or yarn formed in Singapore.

Origin Verifications and Determinations

§ 10.550 Verification and justification of claim for preferential treatment.

(a) *Verification.* A claim for preferential treatment made under § 10.510(a) of this subpart, including any statements or other information submitted to CBP in support of the claim, will be subject to such verification as the port director deems necessary. In the event that the port director is provided with insufficient information to verify or substantiate the claim, the port director may deny the claim for preferential treatment. A verification of a claim for preferential tariff treatment may be conducted by means of one or more of the following:

[1] These designations are set forth in notices published in the **Federal Register** on September 25, 2001 (66 FR 49005), November 19, 2001 (66 FR 57942), April 10, 2002 (67 FR 17412), May 28, 2002 (67 FR 36858), and September 5, 2002 (67 FR 56806).

(1) Requests for information from the importer;

(2) Written requests for information to the exporter or producer;

(3) Requests for the importer to arrange for the exporter or producer to provide information directly to CBP;

(4) Visits to the premises of the exporter or producer in Singapore, in accordance with procedures that the Parties adopt pertaining to verification; and

(5) Such other procedures as the Parties may agree.

(b) *Applicable accounting principles.* When conducting a verification of origin to which Generally Accepted Accounting Principles may be relevant, CBP will apply and accept the Generally Accepted Accounting Principles applicable in the country of production.

§ 10.551 Issuance of negative origin determinations.

If, as a result of an origin verification initiated under § 10.550 of this subpart, CBP denies a claim for preferential treatment made under § 10.510(a) of this subpart, it will issue a determination in writing or via an authorized electronic data interchange system to the importer that sets forth the following:

(a) A description of the good that was the subject of the verification together with the identifying numbers and dates of the import documents pertaining to the good;

(b) A statement setting forth the findings of fact made in connection with the verification and upon which the determination is based; and

(c) With specific reference to the rules applicable to originating goods as set forth in General Note 25, HTSUS, and in §§ 10.530 through 10.543 of this subpart, the legal basis for the determination.

§ 10.552 Information sharing by CBP regarding textile and apparel goods produced in the United States.

(a) *Documents or information in the possession of U.S. enterprises.* Upon written request from the Government of Singapore containing a brief statement of the matter at issue and the cooperation requested, CBP will promptly request from a U.S. enterprise and provide to the Government of Singapore, to the extent available, all correspondence, reports, bills of lading, invoices, order confirmations, and other documents or information relevant to circumvention that the Government of Singapore considers may have taken place.

(b) *Circumvention defined.* For purposes of this section and § 10.554 of this subpart, "circumvention" means providing a false claim or false information for the purpose of, or with the effect of, violating or evading existing customs, country of origin labeling, or trade laws of the Party into which the textile or apparel goods are imported, if such action results in the avoidance of tariffs, quotas, embargoes, prohibitions, restrictions, trade remedies, including antidumping or countervailing duties, or safeguard measures, or in obtaining preferential tariff treatment. Examples of circumvention include: Illegal transshipment; rerouting; fraud; false claims concerning country of origin, fiber content, quantities, description, or classification; falsification of documents; and smuggling.

§ 10.553 Textile and apparel site visits.

(a) *Visits to enterprises of Singapore.* U.S. officials may undertake to conduct site visits to enterprises in the territory of Singapore. U.S. officials will conduct such visits together with responsible officials of the Government of Singapore and in accordance with the laws of Singapore.

(b) *Denial of permission to visit.* If the responsible officials of an enterprise of Singapore that is proposed to be visited do not consent to the site visit, CBP will, if directed by The Committee for the Implementation of Textile Agreements (CITA), exclude from the territory of the United States textile or apparel goods produced or exported by the enterprise until CITA determines that the enterprise's production of, and capability to produce, such goods is consistent with statements by the enterprise that textile or apparel goods it produces or has produced are originating goods or products of Singapore.

§ 10.554 Exclusion of textile or apparel goods for intentional circumvention.

(a) *General.* If CITA finds that an enterprise of Singapore has knowingly or willfully engaged in circumvention, CBP will, if directed by CITA, exclude from the customs territory of the United States textile or apparel goods produced or exported by that enterprise for a period no longer than the applicable period described in paragraph (b) of this section.

(b) *Time periods.* An exclusion from entry imposed under paragraph (a) of this section will begin on the date a finding of knowing or willful circumvention is made by CITA and will remain in effect for the following applicable time period:

(1) With respect to a first finding, the applicable period is six months;

(2) With respect to a second finding, the applicable period is two years; or

(3) With respect to a third or subsequent finding, the applicable period is two years. If, at the time of a third or subsequent finding, an exclusion of goods with respect to an enterprise is in effect as a result of a previous finding, the two-year period applicable to the third or subsequent finding will begin on the day after the day on which the previous exclusion period terminates.

Penalties

§ 10.560 General.

Except as otherwise provided in this subpart, all criminal, civil or administrative penalties which may be imposed on U.S. importers for violations of the customs and related laws and regulations will also apply to U.S. importers for violations of the laws and regulations relating to the SFTA.

§ 10.561 Corrected claim or supporting statement.

An importer who makes a corrected claim under § 10.510(b) will not be subject to civil or administrative penalties under 19 U.S.C. 1592 for having made an incorrect claim or supporting statement, provided that the corrected claim is promptly and voluntarily made.

§ 10.562 Framework for correcting claims or supporting statements.

(a) "*Promptly and voluntarily*" *defined.* Except as provided for in paragraph (b) of this section, for purposes of this subpart, the making of a corrected claim or supporting statement will be deemed to have been done promptly and voluntarily if:

(1) (i) Done within one year following the date on which the importer made the incorrect claim; or

(ii) Done later than one year following the date on which the importer made the incorrect claim, provided that the corrected claim is made:

(A) Before the commencement of a formal investigation, within the meaning of § 162.74(g) of this chapter; or

(B) Before any of the events specified in § 162.74(i) of this chapter has occurred; or

(C) Within 30 days after the importer initially becomes aware that the incorrect claim is not valid; and

(2) Accompanied by a statement setting forth the information specified in paragraph (c) of this section; and

(3) Accompanied or followed by a tender of any actual loss of duties and merchandise processing fees, if

applicable, in accordance with paragraph (e) of this section.

(b) *Exception in cases involving fraud or subsequent incorrect claims.*

(1) *Fraud.* An importer who acted fraudulently in making an incorrect claim may not make a voluntary correction of that claim. For purposes of this paragraph, the term "fraud" will have the meaning set forth in paragraph (C)(3) of appendix B to Part 171 of this chapter.

(2) *Subsequent incorrect claims.* An importer who makes one or more incorrect claims after becoming aware that a claim involving the same merchandise and circumstances is invalid may not make a voluntary correction of the subsequent claims pursuant to paragraph (a)(1)(ii)(C) of this section.

(c) *Statement.* For purposes of this subpart, each corrected claim must be accompanied by a statement, submitted in writing or via an authorized electronic data interchange system, which:

(1) Identifies the class or kind of good to which the incorrect claim relates;

(2) Identifies each affected import transaction, including each port of importation and the approximate date of each importation.

(3) Specifies the nature of the incorrect statements or omissions regarding the claim; and

(4) Sets forth, to the best of the person's knowledge, the true and accurate information or data which should have been covered by or provided in the claim, and states that the person will provide any additional information or data which is unknown at the time of making the corrected claim within 30 days or within any extension of that 30-day period as CBP may permit in order for the person to obtain the information or data.

(d) *Substantial compliance.* For purposes of this section, a person will be deemed to have submitted the statement described in paragraph (c) of this section even though that person provided corrected information in a manner which does not conform to the requirements of the statement specified in paragraph (c) of this section, provided that the information submitted includes, orally or otherwise, substantially the same information as that specified in paragraph (c) of this section.

(e) *Tender of actual loss of duties.* A U.S. importer who makes a corrected claim must tender any actual loss of duties at the time of making the corrected claim, or within 30 days thereafter, or within any extension of that 30-day period as CBP may allow in order for the importer to obtain the information or data necessary to calculate the duties owed.

(f) *Applicability of prior disclosure provisions.* Where a person fails to meet the requirements of this section, that person may nevertheless qualify for prior disclosure treatment under 19 U.S.C. 1592(c)(4) and 162.74 of this chapter.

Goods Returned After Repair or Alteration

§ 10.570 Goods re-entered after repair or alteration in Singapore.

(a) *General.* This section sets forth the rules which apply for purposes of obtaining duty-free treatment on goods returned after repair or alteration in Singapore as provided for in subheadings 9802.00.40 and 9802.00.50, HTSUS. Goods returned after having been repaired or altered in Singapore, whether or not pursuant to a warranty, are eligible for duty-free treatment, provided that the requirements of this section are met. For purposes of this section, "repairs or alterations" means restoration, addition, renovation, re-dyeing, cleaning, re-sterilizing, or other treatment which does not destroy the essential characteristics of, or create a new or commercially different good from, the good exported from the United States.

(b) *Goods not eligible for duty-free treatment after repair or alteration.* The duty-free treatment referred to in paragraph (a) of this section will not apply to goods which, in their condition as exported from the United States to Singapore, are incomplete for their intended use and for which the processing operation performed in Singapore constitutes an operation that is performed as a matter of course in the preparation or manufacture of finished goods.

(c) *Documentation.* The provisions of paragraphs (a), (b), and (c) of § 10.8 of this part, relating to the documentary requirements for goods entered under subheading 9802.00.40 or 9802.00.50, HTSUS, will apply in connection with the entry of goods which are returned from Singapore after having been exported for repairs or alterations and which are claimed to be duty free.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

■ 5. The general authority citation for Part 24 and specific authority for § 24.23 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

* * * * *

Section 24.23 also issued under 19 U.S.C. 3332.

* * * * *

■ 6. Section 24.23 is amended by adding paragraph (c)(6) to read as follows:

§ 24.23 Fees for processing merchandise.

* * * * *

(c) * * *

(6) The ad valorem fee, surcharge, and specific fees provided under paragraphs (b)(1) and (b)(2)(i) of this section will not apply to goods that qualify as originating goods under § 202 of the United States-Singapore Free Trade Agreement Implementation Act (*see also* General Note 25, HTSUS) that are entered, or withdrawn from warehouse for consumption, on or after January 1, 2004.

* * * * *

PART 162—INSPECTION, SEARCH, AND SEIZURE

■ 7. The authority citation for part 162 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624.

* * * * *

■ 8. Section 162.0 is amended by revising the last sentence to read as follows:

§ 162.0 Scope.

* * * Additional provisions concerning records maintenance and examination applicable to U.S. importers, exporters and producers under the U.S.-Chile Free Trade Agreement and the U.S.-Singapore Free Trade Agreement are contained in Part 10, Subparts H and I of this chapter, respectively.

PART 163—RECORDKEEPING

■ 9. The authority citation for part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

* * * * *

■ 10. Section 163.1(a)(2) is amended by redesignating paragraph (a)(2)(vii) as (a)(2)(viii) and adding a new paragraph (vii) to read as follows:

§ 163.1 Definitions.

* * * * *

(a) * * *

(2) * * *

(vii) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the

United States-Singapore Free Trade Agreement (SFTA), including a SFTA importer's supporting statement if previously required by the port director.

* * * * *

■ 11. The Appendix to Part 163 is amended by adding two new listings under section IV in numerical order to read as follows:

Appendix to Part 163—Interim (a)(1)(A) List.

* * * * *

IV. * * *

§ 10.512 SFTA records that the importer may have in support of a SFTA claim for preferential tariff treatment, including an importer's supporting statement if previously required by the port director.

10.522 SFTA TPL Certificate of eligibility.

* * * * *

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

■ 12. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

■ 13. Section 178.2 is amended by adding new listings for §§ 10.510 and 10.511 to the table in numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB control No.
*	*	*
§§ 10.510 and 10.511	Claim for preferential tariff treatment under the US-Singapore Free Trade Agreement.	1651–0117
*	*	*

* * * * *

Deborah J. Spero,

Acting Commissioner, U.S. Customs and Border Protection.

Approved: June 1, 2007.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. E7–11078 Filed 6–8–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–07–044]

Drawbridge Operation Regulations; Long Island, New York Waterway From East Rockaway Inlet to Shinnecock Canal, Hempstead, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Meadowbrook State Parkway Bridge across Sloop Channel at mile 12.8, at Hempstead, New York. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation will allow the bridge to open on signal if at least a half-hour notice is given to the New York State Department of Transportation, except that, from 7 a.m. to 8 p.m. on Saturdays, Sundays, and Federal holidays, the draw shall open every hour, on the hour, if at least a half-hour notice is given. In addition, the bridge need not open from 9:30 p.m. to midnight on June 30, 2007 and the rain date July 1, 2007, if needed, and from 9 p.m. to 11 p.m. on July 4, 2007, for the annual fireworks displays.

DATES: This deviation is effective from June 25, 2007 through November 30, 2007. Comments must reach the Coast Guard on or before December 15, 2007.

ADDRESSES: You may mail comments and related material to Commander (dpb), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York, 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The First Coast Guard District, Bridge Branch, maintains the public docket for this deviation. Comments and material received from the public, as well as documents indicated in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in evaluating this test schedule by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this deviation (CGD01–07–044), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. Comments must be received by December 15, 2007.

Background and Purpose

The Meadowbrook State Parkway Bridge has a vertical clearance in the closed position of 22 feet at mean high water and 25 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.799(h).

New York State Department of Transportation requested a temporary deviation from the drawbridge operation regulations to test an alternate drawbridge operation schedule to help better balance the needs between vehicular land traffic and marine vessel traffic.

Under this temporary deviation, in effect from June 25, 2007 through November 30, 2007, the Meadowbrook State Parkway Bridge across Sloop Channel at mile 12.8, shall operate as follows:

The bridge shall open on signal if at least a half-hour notice is given to the New York State Department of Transportation at (631) 578–5903, except that, from 7 a.m. to 8 p.m. on Saturdays, Sundays, and Federal

holidays, the draw shall open on signal, every hour on the hour, if at least a half-hour notice is given. In addition, the bridge need not open from 9:30 p.m. to midnight on June 30, 2007 and the rain date July 1, 2007, and from 9 p.m. to 11 p.m. on July 4, 2007, for the annual fireworks display.

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

Dated: June 1, 2007.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E7–11178 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–07–046]

Drawbridge Operation Regulations; Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal, Jones Beach, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Wantagh State Parkway Bridge, across Goose Creek, at mile 16.1, at Jones Beach, New York. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation will allow the bridge to open on signal if at least a half-hour notice is given to the New York State Department of Transportation, except that, from 7:30 a.m. to 8:30 p.m. on Saturdays, Sundays, and Federal holidays, the draw shall be opened every hour on the half-hour after at least a half-hour notice is given. The bridge need not open from 9 p.m. to 11 p.m. on the Fourth of July for fireworks display.

DATES: This deviation is effective from June 25, 2007 through November 30, 2007. Comments must reach the Coast Guard on or before December 15, 2007.

ADDRESSES: You may mail comments and related material to Commander (dpb), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York, 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except, Federal holidays. The First Coast Guard District, Bridge Branch, maintains the public docket for this deviation. Comments and material received from the public, as well as documents indicated in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in evaluating this test schedule by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this deviation (CGD01–07–046), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. Comments must be received by December 15, 2007.

Background and Purpose

The Wantagh State Parkway Bridge has a vertical clearance in the closed position of 16 feet at mean high water and 19 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.799(i).

New York State Department of Transportation requested a temporary deviation from the drawbridge operation regulations to test an alternate drawbridge operation schedule to help better balance the needs between vehicular land traffic and marine vessel traffic.

Under this temporary deviation, in effect from June 25, 2007 through November 30, 2007, the Wantagh State Parkway Bridge at mile 16.1, across Goose Creek, shall operate as follows:

The bridge shall open on signal if at least a half-hour notice is given to the New York State Department of Transportation at (516) 242–2637, except that, from 7:30 a.m. to 8:30 p.m. on Saturdays, Sundays, and Federal holidays, the draw shall open on signal once an hour on the half-hour provided at least a half-hour notice is given. The draw need not open for the passage of vessel traffic from 9 p.m. through 11 p.m. on July 4, 2007.

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

Dated: June 1, 2007.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E7–11180 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–07–045]

Drawbridge Operation Regulations; Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, Jones Beach, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Loop Parkway Bridge, across Long Creek at mile 0.7, at Jones Beach, New York. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation will allow the bridge to open on signal for all marine traffic, Monday through Friday twice an hour at twenty and fifty minutes after the hour, from 6:20 a.m. to 7:20 p.m., except that, between 9:50 a.m. and 3:20 p.m., the bridge shall open on signal for all commercial vessels. On Saturday, Sunday, and Federal Holidays, the bridge shall open on signal twice an hour, at twenty minutes and fifty minutes after the hour, between 7:20 a.m. and 8:20 p.m., except that, the bridge shall open on signal for all commercial vessels. Additionally, the bridge need not open during the annual fireworks display from 9:30 p.m. to midnight on June 30, 2007 and the rain date July 1, 2007, if needed. At all other times the bridge shall open on signal for all vessel traffic.

DATES: This deviation is effective from June 25, 2007 through November 30,

2007. Comments must reach the Coast Guard on or before December 15, 2007.

ADDRESSES: You may mail comments and related material to Commander (dpb), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York, 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except, Federal holidays. The First Coast Guard District, Bridge Branch, maintains the public docket for this deviation. Comments and material received from the public, as well as documents indicated in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668–7195.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in evaluating this test schedule by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this deviation (CGD01–07–045), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. Comments must be received by December 15, 2007.

Background and Purpose

The Loop Parkway Bridge has a vertical clearance in the closed position of 21 feet at mean high water and 25 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.799(f).

New York State Department of Transportation requested a temporary deviation from the drawbridge operation regulations to test an alternate drawbridge operation schedule to help better balance the needs between vehicular land traffic and marine vessel traffic. Additionally, the Town of Hempstead has requested a temporary deviation to accommodate vehicular traffic during their Annual Salute to Veterans and Fireworks Display.

Under this temporary deviation, in effect from June 25, 2007 through November 30, 2007, the Loop Parkway Bridge at mile 0.7, across Long Creek, shall operate as follows:

The bridge shall open on signal for all marine traffic, Monday through Friday twice an hour, at twenty and fifty minutes after the hour, from 6:20 a.m. to 7:20 p.m., except that, between 9:50 a.m. and 3:20 p.m., the bridge shall open on signal for all commercial vessels. On Saturday, Sunday, and Federal Holidays, the bridge shall open on signal twice an hour, at twenty and fifty minutes after the hour, between 7:20 a.m. and 8:20 p.m., except that, the bridge shall open on signal for all commercial vessels at all times. The bridge need not open for vessel traffic during the annual fireworks display from 9:30 p.m. to midnight on June 30, 2007 and the rain date July 1, 2007, if needed. At all other times the bridge shall open on signal for all vessel traffic.

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

Dated: June 1, 2007.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E7–11179 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–07–008]

RIN 1625–AA00

Safety Zone: Beverly Homecoming Fireworks, Beverly, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Beverly Homecoming Fireworks on August 5, 2007, temporarily closing all navigable waters of Beverly Harbor within a five hundred (500) yard radius of the fireworks barge located at approximate position 42°32.650′ N, 070°51.980′ W. The safety zone is necessary to protect the life and property of the maritime public from the potential hazards posed by a fireworks display. The safety zone temporarily prohibits entry into or movement within this portion of Beverly Harbor during its closure period.

DATES: This rule is effective from 8:30 p.m. EDT on August 5, 2007 until 11:30 p.m. EDT on August 5, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket are part of docket CGD01–07–008 and are available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Joseph Yonker, Sector Boston, Waterways Management Division, at (617) 223–5007.

SUPPLEMENTARY INFORMATION:

Regulatory History

On April 16, 2007, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; Beverly Homecoming Fireworks, Beverly Harbor, MA" in the **Federal Register** (72 FR 18931). We did not receive any letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

This rule establishes a safety zone on the navigable waters of Beverly Harbor within a 500 yard radius around the fireworks barge located at approximate position 42°32.650′ N, 070°51.980′ W. The safety zone is in effect from 8:30 p.m. EDT until 11:30 p.m. EDT on August 5, 2007.

The safety zone temporarily restricts movement within this portion of Beverly Harbor and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside of the zone during the effective period. The Captain of the Port does not anticipate any negative impact on vessel traffic due to the event. Public notifications will be made prior to the effective period via marine information broadcasts and Local Notice to Mariners.

Discussion of Comments and Changes

The Coast Guard did not receive any comments from the public in response to the NPRM and as a result, no changes have been made to this temporary final rule.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that

Order. The Office of Management and Budget has not reviewed it under that Order.

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

Although this rule prevents vessel traffic from transiting a portion of Beverly Harbor during the effective period, the effects of this regulation will not be significant for several reasons: Vessels will be excluded from the proscribed area for three hours, vessels will be able to operate in the majority of Marblehead Harbor during the effective period, and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Beverly Harbor from 8:30 p.m. EDT until 11:30 p.m. EDT on August 5, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only three hours, vessel traffic can safely pass around the zone, and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

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 safety zone to deal with an emergency situation and that safety zone would be in effect for only three hours.

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. 1226, 1231; 46 U.S.C. 701; 50 U.S.C. 191; 33 CFR 1.05–1, 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. Add temporary § 165.T01–008 to read as follows:

§ 165.T01–008 Safety Zone; Beverly Homecoming Fireworks, Beverly Harbor, Massachusetts.

(a) *Location*. The following area is a safety zone:

All navigable waters of Beverly Harbor within a 500 yard radius of the fireworks barge located at approximate position 42°32.650′ N, 070°51.980′ W.

(b) *Effective Date*. This section is effective from 8:30 p.m. EDT until 11:30 p.m. EDT on August 5, 2007.

(c) *Definitions*. (1) As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP).

(2) *[Reserved]*.

(d) *Regulations*. (1) In accordance with the general regulations in 165.23 of this part, entry into or movement within this zone by any person or vessel is prohibited unless authorized by the Captain of the Port (COTP), Boston or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative on VHF Channel 16 (156.8 MHz) to seek permission to do so. If permission is granted, vessel operators must comply with all directions given to them by the COTP or the COTP's designated representative.

Dated: May 31, 2007.

James L. McDonald,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. E7–11173 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Assistant Administrator of FEMA has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

State	City/town/county	Source of flooding	Location	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified
Burnett County, Texas (Unincorporated Areas) Docket No.: B–7464				
Texas	Burnett County (Unincorporated Areas).	Colorado River (Lake Travis).	Approximately 2000 feet upstream from Shaw Drive (Burnett/Travis County Line).	*722
Texas	Burnett County (Unincorporated Areas).	Colorado River (Lake Travis).	Eastern face of Max Starcke Dam	*724

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Burnett County (Unincorporated Areas)

Maps are available for inspection at 220 South Pierce Street, Room 17, Burnett, TX 78611.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
Clinton County, New York (All Jurisdictions) Docket No.: FEMA–D–7688			
AuSable River	Approximately 2.2 miles upstream of Lower Road Bridge	+491	Town of Ausable.
	At the confluence with West Branch AuSable River	+550	Town of Black Brook.
Fern Lake	The entire shoreline	+1,225	Town of Black Brook.
Salmon River	Approximately 2,750 feet upstream of Fox Farm Road	+306	Town of Peru.
	Approximately 1.2 miles upstream of Conners Road	+585	
Saranac River	Approximately 5,100 feet upstream of Ore Bed Road	+1,090	Town of Black Brook.
	Approximately 170 feet upstream of Union Falls Road	+1,414	
West Branch AuSable River	At the confluence with AuSable River	+550	Town of Black Brook.
	Approximately 170 feet upstream of the confluence with AuSable River.	+551	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Town of Ausable

Maps are available for inspection at the Ausable Town Office, 111 Ausable Street, Keeseville, New York.

Town of Black Brook

Maps are available for inspection at the Black Brook Town Office, 18 North Main Street, Ausable Forks, New York.

Town of Peru

Maps are available for inspection at the Peru Town Office, 3036 Main Street, Peru, New York.

McClain County, Oklahoma, and Incorporated Areas Docket No.: FEMA–B–7473			
Beaver Creek	Confluence with Walnut Creek	+1042	City of Purcell.
	Purcell Lake	+1049	
Crooked Bridge Creek	Approximately 2000 feet downstream of the intersection with State Route 74.	+1102	Town of Goldsby.
	Approximately 2800 feet upstream from the intersection with State Route 746.	+1198	
Walnut Creek	Approximately 100 feet upstream from intersection with Interstate Highway 35.	+1045	City of Purcell, McClain County (Unincorporated Areas)

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
	Approximately 3000 feet upstream from the intersection with W. Adams Street.	+1049	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

City of Purcell
Maps are available for inspection at 230 W. Main, Purcell, OK 73080.
Town of Goldsby
Maps are available for inspection at 100 E. Center Rd., Goldsby, OK 73093.
McClain County (Unincorporated Areas)
Maps are available for inspection at 121 N. 2nd, Purcell, OK 73080.

Snyder County, Pennsylvania, and Incorporated Areas
Docket No.: FEMA–B–7473

Middle Creek	Approximately 550 feet upstream of Middle Creek Road	+433	Township of Union, Township of Penn.
	Approximately 750 feet downstream of Legislative Route 229	+433	
Penns Creek	Approximately at Penns Creeks confluence with the Susquehanna River.	+431	Borough of Selinsgrove, Township of Penn, Township of Union.
	Approximately 3250 feet downstream of Gravel Pit Road	+439	
Penns Creek	Approximately 7000 feet downstream of Legislative Route 509	+452	Township of Jackson.
	Approximately 7200 feet upstream of Legislative Route 509	+466	
Silver Creek	Approximately 780 feet downstream of U.S. Routes 11 & 15	+420	Township of Union.
	Approximately 980 feet upstream of U.S. Routes 11 & 15	+421	
South Tributary	Approximately 420 feet downstream of Market Street	+435	Township of Penn, Borough of Selinsgrove.
	Just upstream of West Sandhill Road	+435	
Susquehanna River	Approximately at the Juniata & Snyder County boundary	+405	Township of Penn, Borough of Selinsgrove, Borough of Shamokin Dam, Township of Chapman, Township of Monroe, Township of Union.
	Approximately at Route 11 at the boundary of Snyder & Union Counties.	+448	
West Mahantango Creek	Approximately at West Mahantango Creek's Confluence with Susquehanna River.	+405	Township of Chapman
	Approximately 175 feet downstream of Old Trail Road	+405	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Borough of Selinsgrove
Maps are available for inspection at 1 North High Street, Selinsgrove, PA 17870.
Borough of Shamokin Dam
Maps are available for inspection at 144 West Eighth Ave, Shamokin Dam, PA 17876.
Township of Chapman
Maps are available for inspection at 1151 Wagner Hill Road, Port Trevorton, PA 17864.
Township of Jackson
Maps are available for inspection at 57 Municipal Road, Winfield, PA 17889.
Township of Monroe
Maps are available for inspection at 39 Municipal Drive, Selinsgrove, PA 17870.
Township of Penn
Maps are available for inspection at 12 Clifford Road, Selinsgrove, PA 17870.
Township of Union
Maps are available for inspection at 1510 McNess Road, Port Trevorton, PA 17864.

Cumberland County, Tennessee, and Incorporated Areas
Docket No.: FEMA–B–7702

Obed River	At Interstate Highway 40	+1674	Cumberland County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
Obed Creek	At confluence with Obed Creek	+1702	City of Crossville.
	At confluence with Obed River	+1702	City of Crossville.
	Approximately 1500 feet upstream of confluence with Town Branch.	+1736	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Cumberland County (Unincorporated Areas)
Maps are available for inspection at: Cumberland County, 2 North Main Street, Suite 203, Crossville, TN 38555.
City of Crossville
Maps are available for inspection at: Cumberland County EOC, 42 Southbend Drive, Crossville, TN 38555.

Whatcom County, Washington, and Incorporated Areas
Docket No.: FEMA–B–7704

Birch Bay	Intersection of Birch Bay Drive and Lora Lane	*8	Whatcom County (Unincorporated Areas).
	Intersection of Birch Bay Drive and Harborview Road	*12	
	500 feet southwest of the intersection of Comox Road and Nakat Place.	*14	
Lummi Bay	2000 feet south of the intersection of Sicia Drive and Germaine Road, 100 feet west of Sucia Drive.	*10	Tribe of Lummi Indian Reservation.
	1500 feet north of the intersection of Sucia Drive and Thetis Street, 100 feet west of Sucia Drive.	*11	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Tribe of Lummi Indian Reservation
Maps are available for inspection at Lummi Land Development Office, 2616 Kwina Drive, Bellingham, WA 98226.
Whatcom County (Unincorporated Areas)
Maps are available for inspection at Whatcom County Public Works, River and Flood Division, 322 North Commercial Street, Suite 1200, Bellingham, WA 98225.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: May 24, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–10961 Filed 6–8–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 393

[Docket No. FMCSA–1997–2364]

RIN 2126 AB07

Parts and Accessories Necessary for Safe Operation; Lamps and Reflective Devices

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: FMCSA amends its regulations concerning parts and accessories necessary for safe operation in response to a petition for reconsideration filed by the Truck Manufacturers Association. As requested by a petitioner, this amendment resolves an inconsistency between FMCSA's Federal Motor Carrier Safety Regulations and the National Highway Traffic Safety Administration's Federal Motor Vehicle Safety Standards.

DATES: This rule is effective July 11, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey J. Van Ness, phone (202) 366–8802, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Legal Basis for the Rulemaking

The legal basis for the August 15, 2005, final rule entitled "Parts and Accessories Necessary for Safe Operation; General Amendments," was set forth in detail there [70 FR 48008–

48009]. That legal basis statement also applies here and will not be reprinted.

One purpose of the 2005 rule, as described in the legal basis section, was to "resolve inconsistencies between [49 CFR] part 393 and the National Highway Traffic Safety Administration's Federal Motor Vehicle Safety Standards (49 CFR part 571) * * *" [70 FR 48008]. This rule responds to a petition for reconsideration of the 2005 rule. Petitioner has brought to the Federal Motor Carrier Safety Administration's (FMCSA) attention another inconsistency, this one between a provision on auxiliary lamps adopted in the 2005 rule [49 CFR 383.11(d)] and a National Highway Traffic Safety Administration (NHTSA) interpretation of its standard for "Lamps, reflective devices, and associated equipment" [49 CFR 571.108, S5.1.3], which was issued almost simultaneously. In resolving the new inconsistency, this rule simply completes the process begun in 2005.

Background

On August 15, 2005, FMCSA published a final rule that amended 49 CFR part 393, Parts and Accessories Necessary for Safe Operation (70 FR 48008). The amendments removed obsolete and redundant regulations; responded to several petitions for rulemaking; provided improved definitions of vehicle types, systems, and components; resolved inconsistencies between 49 CFR part 393 and NHTSA's Federal Motor Vehicle Safety Standards (FMVSSs) (49 CFR part 571); and codified certain FMCSA regulatory guidance concerning the requirements of 49 CFR part 393. Generally, the amendments did not establish new or more stringent requirements, but merely clarified existing requirements. The final rule was intended to make many sections more concise, easier to understand, and more performance-oriented.

The final rule was based on a notice of proposed rulemaking (NPRM) published by the Federal Highway Administration (FHWA) on April 14, 1997 (62 FR 18170). FHWA had received numerous petitions for rulemaking and requests for interpretation of the requirements of 49 CFR part 393, which suggested the need for amendments to clarify several provisions of the safety regulations. In addition, NHTSA, the Federal agency responsible for establishing safety standards for the manufacture of motor vehicles and certain motor vehicle equipment, had made several amendments to its FMVSSs that necessitated amendments to the Federal Motor Carrier Safety Regulations (FMCSRs) in order to eliminate inconsistencies between 49 CFR parts 393 and 571.

Petition for Reconsideration of § 393.11

Summary

On September 6, 2005, the Truck Manufacturers Association (TMA) submitted a petition for reconsideration of FMCSA's August 15, 2005, final rule. The TMA is an association of medium and heavy-duty truck manufacturers located in Washington, DC. Member companies include Ford Motor Company; Freightliner LLC; General Motors Corporation; International Truck and Engine Corporation; Isuzu Motors America, Inc.; Mack Trucks, Inc.; PACCAR, Inc.; and Volvo Trucks North America, Inc. The TMA identified what it believes is "an unintended inconsistency" between one of the requirements of FMCSA's August 15, 2005, final rule and a recent interpretation it had received from NHTSA. Specifically, the final rule amended § 393.11(d), "Prohibition on the use of auxiliary lamps that supplement the identification lamps," to state:

> No commercial motor vehicle may be equipped with lamps that are in a horizontal line with the required identification lamps unless those lamps are required by this regulation.

However, TMA notes that the language above contradicts guidance on the same issue provided by NHTSA in a letter of interpretation, dated July 28, 2005. Where the above language prohibits all auxiliary lamps that are in a horizontal line with the required identification lamps, the NHTSA regulation [S5.1.3 of FMVSS No. 108, Lamps, Reflective Devices, and Associated Equipment] only "prohibits installation of lamps that would impair the effectiveness of the required lighting."

The NHTSA's interpretation letter clarifies that additional lamps may be installed on commercial motor vehicles provided that the auxiliary lamps are positioned at a distance that is at least twice the distance that separates each lamp in the required three-lamp cluster.

Representatives from FMCSA met with NHTSA to discuss the rationale used in developing the position set forth in the interpretation letter and how it relates to the TMA petition. The FMCSA agreed that NHTSA's spacing guidelines for auxiliary lamps, outlined in the July 2005 interpretation letter, ensure that the effectiveness of the three-lamp cluster is not impaired by auxiliary lighting devices. Therefore, FMCSA granted TMA's petition. Today's final rule amends the August 2005 final rule by deleting § 393.11(d).

Background

For vehicles of 80 or more inches in overall width, Table II of FMVSS No. 108 requires that three amber identification lamps (three-lamp cluster) be located as close as practicable to the top center of the vehicle or the cab with lamps placed 6 to 12 inches apart. The function of this three-lamp cluster is to indicate the presence of a large vehicle on the roadway. Table II of FMVSS No. 108 also requires that two amber clearance lamps be installed "to indicate the overall width of the vehicle * * * and as near the top thereof as practicable." In addition, S5.1.3 of FMVSS No. 108 prohibits the installation of lamps that would impair the effectiveness of the required lighting, including the identification lamp cluster.

The NHTSA has long maintained that highway traffic safety is enhanced by the familiarity of drivers with established lighting schemes, which facilitates their ability to instantly recognize the meaning the lamps convey and to respond accordingly. The NHTSA previously explained in opinion letters that auxiliary lamps must be located so that they would not interfere or be confused with the lamps required by FMVSS No. 108. FMCSA concluded that § 393.11(d) was appropriate and consistent with NHTSA's previous enforcement guidance.

However, several weeks before the 49 CFR part 393 final rule was published on August 15, 2005, TMA had written to NHTSA requesting an interpretation regarding the installation of certain auxiliary lighting on heavy-duty trucks and truck tractors. In part, TMA asked about installing auxiliary lamps in the vicinity of the front identification and clearance lamps—the issue specifically addressed in § 393.11(d). The NHTSA responded to TMA on July 28, 2005—less than two weeks before FMCSA's final rule was issued—and provided the following information:

> * * * [A]uxiliary lamps located immediately adjacent to the three-lamp cluster would not be permitted by FMVSS No. 108 because they would impair the effectiveness of identification lamps. The purpose of the three-lamp cluster requirement is to signal the presence of a large vehicle to other drivers. The number of lamps, three, is a part of the signal, and additional lamps could make the signal less recognizable.

However, NHTSA recognized "the need for guidance with respect to the permissible positioning of auxiliary

lamps located between the clearance lamps and the three-lamp cluster." And NHTSA concluded that "positioning auxiliary lamps at a distance that is at least twice the distance that separates each lamp in the required three-lamp cluster provides sufficient separation not to impair the effectiveness of the three-lamp cluster."

Clearly, the guidance provided in NHTSA's July 2005 interpretation letter contradicts the regulatory language in § 393.11(d), which prohibits any lamps that are in a horizontal line with the required identification lamps unless those lamps are required by regulation. The TMA notified FMCSA of this discrepancy via telephone on August 15, 2005—the day the amendments to 49 CFR part 393 were published—and faxed a copy of the NHTSA interpretation letter to FMCSA. The TMA submitted its petition for reconsideration of the 49 CFR part 393 amendments on September 6, 2005.

It is important to note that neither FMCSA nor NHTSA ever expressly *prohibited* the installation of auxiliary lamps. In instances where manufacturers have chosen to install lamps in addition to those which are required by regulation [S5.1.3 of FMVSS No. 108], NHTSA interpretations have required only that the auxiliary lamps not impair the effectiveness of the required lighting. In general, both FMCSA and NHTSA believe that additional lamps will improve the conspicuity of trucks and trailers and, thus, increase highway safety, provided that the additional lamps do not interfere with and are not confused with the lamps required by FMVSS No. 108.

However, the July 2005 interpretation letter to TMA represents the first time objective, measurable limits regarding the location and spacing of auxiliary lamps have been specified. The NHTSA determined that this was necessary to provide detailed guidance to TMA and others regarding the permissible positioning of auxiliary lamps located between the clearance lamps and the three-lamp cluster.

The FMCSA believes that increased safety can be realized through improved conspicuity of vehicles. It is FMCSA's position that the installation of auxiliary lamps will not detract from the effectiveness of the required lighting provided that the spacing between the three-lamp cluster and any auxiliary lamps is maintained as outlined in the NHTSA interpretation letter to TMA.

Conclusion

FMCSA finds that positioning auxiliary lamps at a distance that is at least twice the distance that separates each lamp in the required three-lamp cluster provides sufficient separation to prevent the auxiliary lighting devices from decreasing the effectiveness of the three-lamp cluster.

Further, FMCSA believes that it is important to maintain consistency, to the maximum extent practicable, between FMCSA and NHTSA regulations. Trucks and trailers that are configured with auxiliary lamps meeting the conditions outlined in NHTSA's July 2005 interpretation letter are considered by FMCSA as fully compliant with the Federal safety regulations. FMCSA does not believe that it is appropriate to retain the current language in § 393.11 which prohibits the installation of auxiliary lamps that are permitted by the NHTSA interpretation.

Consistent with the above, FMCSA is rescinding § 393.11(d) in this final rule.

Regulatory Analyses and Notices

Good Cause Exception to Notice and Comment

FMCSA has determined that prior notice and opportunity for comment on this final rule are unnecessary. One of the stated purposes of the August 15, 2005, rule (Summary, 70 FR 48008) was to "resolve inconsistencies between part 393 and the National Highway Traffic Safety Administration's Federal Motor Vehicle Safety Standards (49 CFR part 571)." That point was driven home throughout the rule by repeated comparison of the two agencies' regulations and the adoption of amendments to make 49 CFR part 393 consistent with 49 CFR part 571. The section dealing with § 393.11 (70 FR 48012–48013) was little more than a discussion of NHTSA actions that required changes to the FMCSA lighting rules.

As it happened, the August 15, 2005, rule created an inconsistency with NHTSA's recently-issued interpretation of FMVSS No. 108. This final rule simply corrects one more anomaly. It imposes no additional costs or requirements on motor carriers and does not adversely affect safety. Therefore, FMCSA finds good cause pursuant to 5 U.S.C. 553(b) to adopt the rule without notice and comment.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or Department of Transportation regulatory policies and procedures. This document is not required to be reviewed by the Office of Management and Budget. Because this rulemaking merely makes a minor change that will not result in additional costs, a regulatory evaluation has not been prepared by the Agency.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), FMCSA has considered the effects of this regulatory action on small entities and determined that this rule will not have a significant impact on a substantial number of small entities. Because this rulemaking merely makes a minor change that will not result in additional costs, a regulatory flexibility analysis has not been prepared by the Agency.

Unfunded Mandates Reform Act of 1995

This rulemaking will not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*), that will result in the expenditure by State, local, and tribal governments in the aggregate or by the private sector of $120.7 million or more in any one year.

Executive Order 12988 (Civil Justice Reform)

This action will meet 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.

Executive Order 13045 (Protection of Children)

FMCSA has analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

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

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. It has been determined that this rulemaking will not have a substantial direct effect on States nor will it limit the policy-making discretion of the

States. Nothing in this document will preempt any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This final rule does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

National Environmental Policy Act

FMCSA analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined under FMCSA Order 5610.1 (69 FR 9680, March 1, 2004) that this action is categorically excluded (CE) under Appendix 2, paragraph 6.b. from further environmental documentation. This CE relates to establishing regulations and actions taken pursuant to these regulations that are editorial in nature. In addition, FMCSA believes that the action includes no extraordinary circumstances that would have any effect on the quality of the environment. Thus, the action does not require an environmental assessment or an environmental impact statement.

FMCSA also analyzed this final rule under the Clean Air Act (CAA), as amended section 176(c), (42 U.S.C. 7401 *et seq.*) and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it involves rulemaking activity which would not result in any emissions increase nor would it have any potential to result in emissions that are above the general conformity rule's de minimis emission threshold levels (40 CFR 93.153(c)(2)). Moreover, it is reasonably foreseeable that the rule would not increase total CMV mileage, change the routing of CMVs, change how CMVs operate, or change the CMV fleet-mix of motor carriers. This action merely rescinds a regulatory provision that conflicts with an NHTSA interpretation.

Executive Order 13211 (Energy Effects)

FMCSA has analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this action will not be a *significant energy action* under that order because it will not be economically significant and will not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects for 49 CFR Part 393

Highways and roads, incorporation by reference, motor carriers, motor vehicle equipment, motor vehicle safety.

■ In consideration of the foregoing, FMCSA amends 49 CFR part 393 as follows:

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

■ 1. The authority citation for part 393 continues to read as follows:

Authority: 49 U.S.C. 322, 31136, and 31502; section 1041(b) of Pub. L. 102–240, 105 Stat. 1914, 1993 (1991); and 49 CFR 1.73.

§ 393.11 [Amended]

■ 2. Amend § 393.11 by removing paragraph (d) and by revising the heading of Table 1 to read "Table 1 of § 393.11—Required Lamps and Deflectors on Commercial Motor Vehicles".

Issued on: May 30, 2007.

John H. Hill,

Administrator.

[FR Doc. E7–11112 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 573, 577 and 579

[Docket No. NHTSA–2007–27356; Notice 1]

Defect and Noncompliance Notification, Reports, and Responsibility; Reporting of Information and Documents Concerning Potential Defects

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule; Changes of address and other administrative adjustments.

SUMMARY: This final rule contains administrative adjustments to part 573, Defect and Noncompliance Responsibility and Reports; part 577, Defect and Noncompliance Notification; and part 579, Reporting of Information and Communications about Potential Defects, of Title 49 of the CFR. Specifically, we are updating and/or supplementing the mailing and address information found in some sections, and correcting erroneous references found in other sections. We are also moving one paragraph of part 573, requiring submission of draft owner notification letters to NHTSA, to another paragraph found in part 577 that addresses the content of owner notification letters, where that paragraph more logically fits. None of these amendments impose or relax any substantive requirements or burdens on manufacturers.

DATES: This final rule is effective July 11, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer T. Timian, Office of Defects Investigation (NVS–215), NHTSA, 1200 New Jersey Avenue, SE., Washington, DC, 20590, telephone (202) 366–0209.

SUPPLEMENTARY INFORMATION:

Reasons for the Technical Amendments

In various sections of parts 573 and 577 of Title 49 of the Code of Federal Regulations (CFR), manufacturers are required to report information, submit documentation, and engage in specific activities if a motor vehicle or an item of motor vehicle equipment they manufactured contains a safety defect or fails to comply with a Federal Motor Vehicle Safety Standard (FMVSS). Pursuant to part 579 of that same title, manufacturers are also required to report what is termed early warning information, including information concerning claims, deaths, and injuries, which is gathered to detect possible safety-related defects in particular motor vehicles and items of motor vehicle equipment.

Depending on the particular section in question, manufacturers are required to address their submissions to certain offices at NHTSA's headquarters, and/or to particular e-mail addresses linked to those particular offices. The Department of Transportation, including NHTSA, is in the process of relocating its headquarters. The NHTSA offices affected by this notice moved to the new headquarters on May 31, 2007. Therefore, administrative adjustments are necessary to update the mailing address information in some sections.

We are also taking the opportunity through this final rule to supplement other mailing and address information found in some sections, correct errors found in other sections, and relocate one paragraph whose subject matter is more appropriate to another paragraph. As one example, we are amending the address for mailed defect and noncompliance notifications for safety recalls as well as for other submissions concerning those recalls, and including a new e-mail address, so that important safety information is routed directly to those in NHTSA responsible for

reviewing and processing it. Similarly, we are amending the mailing address and updating the e-mail addresses for mailed early warning reporting submissions so that information concerning potential safety defects is routed directly to those in NHTSA responsible for reviewing and processing this information.

The Administrative Procedure Act, 5 U.S.C. 553, generally requires an agency to provide notice and an opportunity for comment before issuing a final rule. However, under 5 U.S.C. 553(b)(3)(A), notice and comment are not required for rules of agency organization, procedure, or practice. Nearly all of the changes made by this notice concern where and how to submit information to NHTSA in light of the agency's move to its new headquarters and are, therefore, related to NHTSA's organization. In addition, under 5 U.S.C. 553(b)(3)(B), an agency may issue a rule without notice and comment when it finds, for good cause, that notice and comment would be impracticable, unnecessary, or contrary to the public interest. None of the changes made today will impose or relax any substantive requirements or burdens on manufacturers.[1] These administrative adjustments, however, will provide to entities that are currently required to submit information to NHTSA the best methods of ensuring proper delivery of that information. Moreover, these amendments will enable the agency to process and manage important safety-related information in a more expeditious fashion. Because these amendments merely inform the public of proper mailing addresses and mail routing codes, move a paragraph concerning a required submission to its more logical location so that it can be more easily found, and correct erroneous information (such as outmoded titles for agency officials), public comment on the changes would serve no purpose. Moreover, allowing time for such comment in light of the agency's imminent move to its new headquarters would be contrary to the public interest because it could result in important safety-related submissions going astray. Accordingly, NHTSA finds for good cause that any notice and opportunity for comment on these administrative adjustments is not necessary.

The regulatory parts and sections that are amended by today's final rule are identified below.

The Changes of Address and Other Administrative Adjustments

The Department of Transportation's headquarters, including NHTSA, is in the process of relocating from 400 7th Street address to its new location at 1200 New Jersey Avenue, SE., Washington, DC, 20590. Accordingly, we are changing the address information provided in the following regulatory sections or paragraphs that contain obsolete street address information: 49 CFR 573.10(a), Reporting the sale or lease of defective or noncompliant tires; 49 CFR 577.5(g)(1)(vii), Notification pursuant to a manufacturer's decision; 49 CFR 579.6, Address for submitting reports and other information; and 49 CFR 579.29(f), Manner of reporting. In addition, we are adding the new street address to 49 CFR 573.9, Address for submitting required reports and other information, which did contain some address information, but not a street address.

We are adding references to the Recall Management Division and its mail routing code (NVS–215) to 49 CFR 573.9, Address for submitting required reports and other information, paragraph (c)(10) of 49 CFR 573.6, Defect and noncompliance information report, and paragraph (a) of 49 CFR 577.5, Notification pursuant to a manufacturer's decision. In 49 CFR 573.9, we are also adding an e-mail address for that division—*RMD.ODI@dot.gov*. The Recall Management Division (RMD) is the group within NHTSA's Office of Defects Investigation (ODI) that is responsible for receiving, processing, and managing recall-related information. Each of these changes will, therefore, provide the fastest delivery of this information once the information arrives at the Department's building or, in the case of e-mailed information, instantaneous delivery.[2]

For similar reasons, we are adding a reference to the Early Warning Division and its mail routing code (NVS–217) to paragraph (a) of 49 CFR 579.5, Notices, bulletins, customer satisfaction campaigns, consumer advisories, and other communications, and paragraph (f) of 49 CFR 579.29, Manner of reporting. The Early Warning Division is the group within ODI responsible for receiving, processing, and managing the early warning information manufacturers submit. This change in addressee information will allow for the fastest delivery of this information once it arrives at the Department's building. We are also updating the e-mail address information found in 49 CFR 579.6(a), Address for submitting reports and other information. Specifically, we are changing the address *foreign_recalls@nhtsa.dot.gov* to *frecalls@dot.gov*, and the address *tsb@nhtsa.dot.gov* to *tsb@dot.gov*. These changes reflect the Department's effort to truncate e-mail addresses where possible.

In § 573.6(c)(10), we are striking the reference about how to submit notifications required by part 577; that part amply explains how submissions made under it are to be made. In its place, we added language clarifying that manufacturers may submit representative copies of communications concerning a safety defect or noncompliance by any means of their choosing, so long as that means permits the manufacturer to verify promptly that the copy was in fact received by the Recall Management Division and the date it was received by that division.

In addition to the above, we are deleting the text of current 49 CFR 573.6(c)(11) and moving it to paragraph (a) of 49 CFR 577.5, Notification pursuant to a manufacturer's decision, where it more logically belongs. Part 573 concerns defect and noncompliance responsibility and reports submitted by manufacturers to NHTSA, while part 577 primarily concerns notifications by manufacturers to vehicle and equipment owners. Current 49 CFR 573.6(c)(11) contains the requirement that manufacturers submit a proposed owner notification letter to NHTSA at least five days before the manufacturer plans to mail notifications to owners and purchasers. Paragraph 49 CFR 577.5(a) dictates the content of those notifications and also requires manufacturers to submit a copy of the envelope in which they intend to mail the notifications (unless the format of the envelope has been previously approved). Given the correlation of subject matter in the two paragraphs,

[1] We note, for one example, that none of the administrative adjustments made by today's final rule supersedes the requirement in 49 U.S.C. 30118(c) that manufacturers notify NHTSA by certified mail when they learn a product they manufacture contains a safety defect or does not comply with a FMVSS. In this context, certified mail includes such services as the United States Postal Service or private carriers offer. This is a statutory directive and one that we do not have the authority to modify. For the reader's convenience, we have added a reference to it in the rule text. However, in order to assist the agency in most efficiently processing this information, we continue to permit submission of additional copies of these notifications (commonly referred to as defect or noncompliance information reports) via e-mail to *RMD.ODI@dot.gov*, or any other means by which a manufacturer may choose to expeditiously provide this information.

[2] All e-mailed submissions are more readily handled if placed into a portable document format (.pdf). Unlike other software, this format permits the agency to directly upload the information into its electronic system for collecting and managing this information.

the merging of the one into the other is appropriate. We think that placing the requirement to submit a draft owner notification letter to NHTSA in the same paragraph as the requirements for what should be in such a letter will aid manufacturers in locating the requirement and avoid confusion about such a letter's required content. Accordingly, several sentences in 577.5(a) are being reorganized and reworded in order to accommodate this merger. Manufacturers should note that this merger does not change the present requirement that proposed owner notifications and their envelopes be submitted to NHTSA (and now, more specifically, the Recall Management Division (NVS–215)) no fewer than five business days before mailing to owners begins. Nor does this merger change the requirement that these submissions be made by any means that permits the manufacturer to verify that its submission was received and the date it was received.

The deletion of the current text in 49 CFR 573.6(c)(11) will necessitate the moving up of the regulatory text found in the paragraphs following that paragraph so as not to leave a numbering gap between the paragraphs. Therefore, the regulatory text presently in paragraph 573.6(c)(12) is being moved up and placed into paragraph 573.6(c)(11).

We are further correcting the addressee information found in paragraph (a) of 49 CFR 573.10, Reporting the sale or lease of defective or noncompliant tires, from the "Associate Administrator for Safety Assurance," to the "Associate Administrator for Enforcement." This change would reflect the Associate Administrator's present title. We are also replacing, for purposes of grammatical precision, the pronoun "which" with "that" in the paragraph.

We are further amending 49 CFR 577.5(a) first to strike the reference to "§ 573.6(c)(9)" in that paragraph, as the reference to requirements for submission of draft owner notifications is no longer applicable because those requirements will now be found in the body of paragraph 577.5(a). Second, we are making the paragraph's regulatory text more gender-neutral by striking the references to "him" and "he," and replacing those terms with "the manufacturer." Third, and for purposes of grammatical precision, we are replacing the pronoun "which" with "that" where appropriate. Fourth, and for purposes of clarity, we are adding the words "the notification" between "mailing" and "to owners" in the second to last sentence of the paragraph.

In 49 CFR 579.5(a), Notices, bulletins, customer satisfaction campaigns, consumer advisories, and other communications, we are correcting the incorrect reference to "§ 573.6(c)(9)." Under the current text, a reader would be led to believe that paragraph 49 CFR 573.6(c)(9) requires the submission of certain safety recall-related communications. That requirement, however, is found in paragraph 49 CFR 573.6(c)(10), and not 573.6(c)(9).

List of Subjects in 49 CFR Parts 573, 577, and 579

Defects, Motor vehicle safety, Noncompliance, Reporting and recordkeeping requirements, Tires.

■ For the reasons stated in the preamble, the following amendments are made to 49 CFR parts 573, 577, and 579:

PART 573—DEFECT AND NONCOMPLIANCE RESPONSIBILITY AND REPORTS

■ 1. The authority citation for part 573 is revised to read as follows:

Authority: 49 U.S.C. 30102, 30103, 30116–30121, 30166; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

■ 2. Section 573.6 is amended by revising paragraph (c)(10), removing paragraph (c)(11), redesignating paragraph (c)(12) as (c)(11) and revising newly redesignated paragraph (c)(11) to read as follows:

§ 573.6 Defect and noncompliance responsibility.

* * * * *

(c) * * *

(10) A representative copy of all notices, bulletins, and other communications that relate directly to the defect or noncompliance and are sent to more than one manufacturer, distributor, dealer or purchaser. These copies shall be submitted to NHTSA's Recall Management Division (NVS–215) (RMD), not later than 5 days after they are initially sent to manufacturers, distributors, dealers, or purchasers. Submission shall be made by any means, including those means identified in § 573.9 of this part, which permits the manufacturer to verify promptly that the copy was in fact received by RMD and the date it was received by RMD.

(11) The manufacturer's campaign number, if not identical to the identification number assigned by NHTSA.

■ 3. Section 573.9 is revised to read as follows:

§ 573.9 Address for submitting required reports and other information.

All submissions, except as otherwise required by this part, shall be addressed to the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, Attention: Recall Management Division (NVS–215), 1200 New Jersey Avenue, SE., Washington, DC 20590. These submissions may be submitted as an attachment to an e-mail message to *RMD.ODI@dot.gov* in a portable document format (.pdf). Whether or not they are also submitted electronically, defect or noncompliance reports required by section 573.6 of this part must be submitted by certified mail in accordance with 49 U.S.C. 30118(c).

■ 4. Section 573.10 is amended by revising paragraph (a) to read as follows:

§ 573.10 Reporting the sale or lease of defective or noncompliant tires.

(a) *Reporting requirement.* Subject to paragraph (b) of this section, any person who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire that is not compliant with an applicable tire safety standard with actual knowledge that the manufacturer of such tire has notified its dealers of such defect or noncompliance as required under 49 U.S.C. 30118(c) or as required by an order under 49 U.S.C. 30118(b) must report that sale or lease to the Associate Administrator for Enforcement, NHTSA, 1200 New Jersey Ave., SE., Washington, DC 20590.

* * * * *

PART 577—DEFECT AND NONCOMPLIANCE NOTIFICATION

■ 1. The authority citation for part 577 continues to read as follows:

Authority: 49 U.S.C. 30102, 30103, 30116–30121, 30166; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

■ 2. Section 577.5 is amended by revising paragraphs (a) and (g)(1)(vii) introductory text to read as follows:

§ 577.5 Notification pursuant to a manufacturer's decision.

(a) When a manufacturer of motor vehicles or replacement equipment determines that any motor vehicle or item of replacement equipment produced by the manufacturer contains a defect that relates to motor vehicle safety, or fails to conform to an applicable Federal motor vehicle safety standard, the manufacturer shall provide notification in accordance with paragraph (a) of § 577.7, unless the manufacturer is exempted by the Administrator (pursuant to 49 U.S.C. 30118(d) or 30120(h)) from giving such

notification. The notification shall contain the information specified in this section. The information required by paragraphs (b) and (c) of this section shall be presented in the form and order specified. The information required by paragraphs (d) through (h) of this section may be presented in any order. Except as authorized by the Administrator, the manufacturer shall submit a copy of its proposed owner notification letter, including any provisions or attachments related to reimbursement, to NHTSA's Recall Management Division (NVS–215) no fewer than five Federal Government business days before it intends to begin mailing it to owners. The manufacturer shall mark the outside of each envelope in which it sends an owner notification letter with a notation that includes the words "SAFETY," "RECALL," and "NOTICE," all in capital letters and in type that is larger than that used in the address section, and is also distinguishable from the other type in a manner other than size. Except where the format of the envelope has been previously approved by NHTSA's Recall Management Division (NVS–215), each manufacturer must submit the envelope format it intends to use to that division at least five Federal Government business days before mailing the notification to owners. Submission of envelopes and proposed owner notification letters shall be made by any means, including those means identified in 49 CFR 573.9, that permits the manufacturer to verify receipt promptly by the Recall Management Division and the date it was received by that division. Notification sent to an owner whose address is in either the Commonwealth of Puerto Rico or the Canal Zone shall be written in both English and Spanish.

* * * * *

(g) * * *

(1) * * *

(vii) A statement informing the owner that he or she may submit a complaint to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590; or call the toll-free Vehicle Safety Hotline at 1–888–327–4236 (TTY: 1–800–424–9153); or go to *http://www.safercar.gov*, if the owner believes that:

* * * * *

PART 579—REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS

■ 1. The authority citation for part 579 is revised to read as follows:

Authority: 49 U.S.C. 30102–103, 30112, 30117–121, 30166–167; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

■ 2. Section 579.5 is amended by revising paragraph (a) to read as follows:

§ 579.5 Notices, bulletins, customer satisfaction campaigns, consumer advisories, and other communications.

(a) Each manufacturer shall furnish to NHTSA's Early Warning Division (NVS–217) a copy of all notices, bulletins, and other communications (including those transmitted by computer, telefax, or other electronic means and including warranty and policy extension communiqués and product improvement bulletins) other than those required to be submitted pursuant to § 573.6(c)(10) of this chapter, sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States, regarding any defect in its vehicles or items of equipment (including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications), whether or not such defect is safety-related.

* * * * *

■ 3. Section 579.6 is amended by revising paragraph (a) to read as follows:

§ 579.6 Address for submitting reports and other information.

(a) Except as provided by paragraph (b) of this section, information, reports, and documents required to be submitted to NHTSA pursuant to this part may be submitted by mail, by facsimile, or by e-mail. If submitted by mail, they must be addressed to the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, Attention: Early Warning Division (NVS–217), 1200 New Jersey Avenue, SE., Washington, DC 20590. If submitted by facsimile, they must be addressed to the Associate Administrator for Enforcement and transmitted to (202) 366–7882. If submitted by e-mail, submissions under subpart B of this part must be submitted to *frecalls@dot.gov* and submissions under § 579.5 must be submitted to *tsb@dot.gov*.

* * * * *

■ 4. Section 579.29 is amended by revising paragraph (f) to read as follows:

§ 579.29 Manner of reporting.

* * * * *

(f) Information and requests submitted under paragraphs (c), (d), and (e) of this section shall be provided in writing to the Director, Office of Defects Investigation, NHTSA, Attention: Early Warning Division (NVS–217), 1200 New Jersey Avenue, SE., Washington, DC 20590.

Issued on: June 5, 2007.

Ronald L. Medford,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. E7–11119 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 72, No. 111
Monday, June 11, 2007

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–AI08

Interlocutory Review of Rulings on Requests by Potential Parties for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) is proposing to amend its regulations to provide for expedited (and in this case, "interlocutory") review by the Commission of orders on requests by potential parties for access to certain sensitive unclassified non-safeguards information (SUNSI) and Safeguards Information (SGI).

DATES: The comment period expires on July 11, 2007. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number RIN 3150–AI08 in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including personal information such as social security numbers and birth dates in your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: *SECY@nrc.gov.* If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* Address questions about our rulemaking Web site to Carol Gallagher (301) 415–5905; e-mail *cag@nrc.gov.* Comments can also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone (301) 415–1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at *http://ruleforum.llnl.gov.*

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into 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 problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Patrick Moulding, Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–2549, e-mail *pam3@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion
III. Voluntary Consensus Standards
IV. Environmental Impact: Categorical Exclusion
V. Paperwork Reduction Act Statement
VI. Regulatory Analysis
VII. Backfit Analysis
VIII. Plain Language

I. Background

Commission regulations in 10 CFR part 2, "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," govern the conduct of NRC adjudicatory proceedings. Potential parties who may request a hearing or petition to intervene in a hearing under 10 CFR part 2 may need access to sensitive unclassified non-safeguards information (SUNSI) (including, but not limited to, proprietary, confidential commercial, and security-related information) and to Safeguards Information (SGI) as defined in 10 CFR 73.2 to meet Commission requirements for hearing requests or for intervention.

In order to facilitate access to the information described above, the NRC staff has developed, and the Commission has approved for public comment,[1] draft access procedures to address receipt of such information by potential parties. In addition, the Commission is completing a final rulemaking to update its regulations governing access to and protection of SGI.[2] Development of the draft procedures for access by potential parties and of the SGI rule is separate from, and not a part of, the proposed rulemaking to amend 10 CFR 2.311, which is the subject of this document. The proposed revisions to 10 CFR 2.311 would provide for interlocutory review by the Commission of access determinations made pursuant to those procedures, but § 2.311 would not control how the initial access determinations are made. However, a brief discussion of the purpose of those procedures is necessary to explain the Commission's intent in revising § 2.311.

Under the draft procedures for information access, a **Federal Register** notice of hearing, or a notice of opportunity for hearing on a licensing or other regulatory action, would instruct persons who claim a need for access to SUNSI or SGI in order to prepare a hearing request or intervention petition to submit a request by letter to specified Commission offices, within a specified time period from the issuance of the

[1] The NRC staff intends to make those draft access procedures available for public comment as soon as practicable to coincide with the publication of this proposed rule.

[2] *See* "Protection of Safeguards Information," (71 FR 64004; Oct. 31, 2006). The comment period on that proposed rule expired January 2, 2007, and a final rule is under development.

notice. The letter request for either SUNSI or SGI would have to contain certain elements, such as a description of the NRC licensing or enforcement action at issue (with citations to the relevant FRN); a description of the proposed party's particular interest that could be harmed by the potential NRC action; and the identity of the individual requesting access to the information and that individual's need for the information in order to meaningfully participate in the adjudicatory proceeding. It is anticipated that access to SGI also would require: (1) A showing of the technical competence of the requester to understand and use the requested information to provide the basis and specificity for a proffered contention and (2) completion of a background check to establish trustworthiness and reliability (including fingerprinting for a criminal history records check and a credit check release). Because such background checks may take up to several months to complete, the Commission has also approved development of a "pre-clearance" process by which potential parties who may seek access to SGI could request initiation of the background check prior to a notice of hearing and thus minimize delays in the preparation (and, if appropriate, adjudication) of security-related contentions. The NRC staff intends to propose such a process in conjunction with the aforementioned draft access procedures that will be made available for public comment.

Based on an evaluation of the information submitted, the NRC staff would determine whether (1) There is a reasonable basis to believe that a potential party is likely to establish standing to intervene or to otherwise participate as a party in an adjudicatory proceeding and (2) the proposed recipient of the information has demonstrated (i) A need for SUNSI or (ii) "need to know" for SGI and that the proposed recipient is trustworthy and reliable. If the request for access to SUNSI or SGI is granted, the terms and conditions for this access would be set forth in a draft protective order and affidavit of non-disclosure. If the request for access to SUNSI or SGI is denied by the NRC staff, the staff would briefly state the reasons for the denial. The requester could challenge the staff's adverse determination or denial of access. Depending on the applicable access procedures and provisions of the SGI rule (once they become effective), such a challenge would be filed with any presiding officer assigned to the proposed NRC licensing action; or if no presiding officer has yet been assigned, with the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, or if he or she is unavailable, with another administrative judge, or with an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or, if another officer has been designated to rule on information access issues, with that officer.

As explained above, requests for such information at this stage of a proceeding would initially be made to and decided by the NRC staff. However, that feature of the draft access procedures would not apply to: (1) License transfer adjudications (for which the Commission has already chosen a different procedural approach),[3] and (2) the pending High Level Waste (HLW) Pre-License Application proceeding (PAPO), or any subsequent adjudication regarding the Department of Energy's expected application for a construction authorization for a HLW repository.[4]

It is expected that the draft access procedures also would include time periods for submission of requests for access, for staff determinations, for filing of contentions, and for challenges to appeal adverse staff determinations. These periods would be intended to minimize the potential for delay in the admission of contentions.

As evident in the discussion that follows, this proposed rulemaking deals with interlocutory review (review permitted immediately rather than at the end of a proceeding) by the Commission of an order on such an "appeal." The proposed amendments to 10 CFR 2.311 recognize the importance of access to information on the proposed licensing action by potential parties in determining whether to request a hearing or to intervene in a hearing or to support these requests. Extending the opportunity to seek interlocutory review by the Commission of orders relating to these requests could enhance both public involvement in NRC adjudicatory proceedings and the effectiveness and efficiency of these proceedings.

[3] *See* Consolidated Edison Co. (Indian Point, Units 1 and 2), CLI–01–8, 53 NRC 225, 231 (2001); Power Authority of the State of New York (James A. FitzPatrick Nuclear Power Plant; Indian Point, Unit 3), CLI–00–22, 52 NRC 266, 292 (2000). In these decisions, the Commission established a procedure for making confidential commercial information available to petitioners to intervene in which the applicant and petitioners may negotiate a confidentiality agreement or a proposed protective order. If no agreement can be reached, one or more individuals may move for issuance of a protective order.

[4] The Commission has directed that the draft procedures for access to SUNSI and SGI not apply to the pending PAPO proceeding or the subsequent proceeding on the HLW repository.

II. Discussion

Section 2.311 provides for "interlocutory" review by the Commission of Orders issued by a presiding officer or Atomic Safety and Licensing Board[5] on requests for hearing or petitions to intervene and selection of hearing procedures. However, there is no comparable provision for interlocutory Commission review of orders relating to requests by potential parties for access to information described previously. To address this omission, the Commission is proposing changes to the rules of practice in Part 2 as described below.

The definitions in § 2.4 would be modified to add a definition of Potential party as follows: Potential party means any person who has requested, or who may intend to request, a hearing or petition to intervene in a hearing under 10 CFR part 2, other than hearings conducted pursuant to Subparts J and M of Part 2.

This proposed definition does not rely on the definition of Party in § 2.1001 of Subpart J, applicable to a party in a proceeding for the issuance of licenses related to a high-level radioactive waste (HLW) geologic repository. As stated in § 2.1001, the term Party is defined only for purposes of Subpart J of part 2.[6] Similarly, the proposed definition by its terms, does not apply to a proceeding conducted pursuant to Subpart M ("Procedures for Hearings on License Transfer Applications").

The proposed § 2.311 would allow potential parties (persons who may intend to request a hearing or petition for leave to intervene in a hearing), to seek expedited review by the Commission of certain orders. Among these are orders relating to a request by potential parties for access to SUNSI and SGI. This amendment is necessary to provide these requesters or petitioners an avenue for promptly obtaining Commission review of such determinations, which might ultimately result in denial of a request for a hearing or for leave to intervene for failure to meet the requirements for standing and admissibility of contentions. Specific proposed changes to § 2.311 are discussed below.

[5] The term "Atomic Safety and Licensing Board" would be deleted because the definition of "presiding officer" in 10 CFR 2.4 includes that term.

[6] See discussion in Section I regarding the inapplicability of the interlocutory appeal process that is the subject of this proposed rule to the pending HLW PAPO proceeding or to any subsequent adjudication regarding the expected application by DOE for a construction authorization for a HLW repository.

The proposed rule would amend 10 CFR 2.311(a) by making the following changes. In addition to deletion of the reference in paragraph (a) to the Atomic Safety and Licensing Board, paragraph (a) would be further modified. First, language would be added to include orders other than those issued by the presiding officer: *e.g.*, if a presiding officer has not been designated, orders of the Chief Administrative Judge, or if he or she is unavailable, of another administrative judge, or of an administrative law judge with jurisdiction pursuant to § 2.318(a). This proposed change recognizes that a presiding officer might not have been designated at the stage in which a potential party is seeking interlocutory review by the Commission. Also, paragraph (a) would be divided into paragraphs (a)(1), (a)(2) and (a)(3), and a new paragraph (b). Paragraphs (a)(1) and (a)(2) would retain orders on a request for hearing or petition to intervene as orders on which interlocutory review by the Commission may be sought. New paragraph (a)(3) would add to these categories an order relating to a request for access to SUNSI (including, but not limited to, proprietary, confidential commercial, and security-related information) and SGI. Access to this information could be necessary for a potential party to determine whether to request a hearing or petition to intervene or to support such requests. This paragraph would also add language authorizing an appeal, in connection with such a request, of an order of an officer designated to rule on information access issues. This language is necessary because, as is contemplated by the draft access procedures discussed in Section I above and by the Commission's final rule in development concerning SGI, a judge may be specifically designated to adjudicate information access issues. The remainder of paragraph (a), addressing requirements relating to such matters as the initiation and filing of appeals, would be redesignated as paragraph (b).

In light of the above modifications, current paragraphs (b), (c), and (d) would be redesignated as paragraphs (c), (d), and (e), respectively. In redesignated paragraph (c), an order denying a request for access to the information described in paragraph (a), would be included as an order appealable *by the petitioner/requester* on the question as to whether the request and/or petition should have been granted. Former paragraph (c), redesignated as paragraph (d), concerns appeals *by a party other than the requester/petitioner.* This paragraph would be modified to address in paragraph (d)(1) appeals of orders granting a petition to intervene and/or hearing and in paragraph (d)(2), appeals of orders granting requests for access to information. The appealable issue in paragraph (d)(2) is whether the request for access should have been denied in whole or in part. Paragraph (d) in the current rule is redesignated as paragraph (e) but would be otherwise unchanged.

III. 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 using such a standard is inconsistent with applicable law or is otherwise impractical. The NRC is proposing to permit potential parties to seek interlocutory Commission review of orders denying a request for access to information for the preparation of contentions. This action does not constitute the establishment of a government-unique standard as defined in the Office of Management and Budget (OMB) Circular A–119 (1998).

IV. Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed regulation is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation.

V. Paperwork Reduction Act Statement

This proposed rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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.

VI. Regulatory Analysis

A regulatory analysis has not been prepared for this regulation because it applies to the procedures to be used in NRC adjudicatory proceedings, and would not involve any provisions that would impose any economic burdens on licensees or the public.

VII. Backfit Analysis

The NRC has determined that the backfit rules (§§ 50.109, 70.76, 72.62, or 76.76) do not apply to this proposed rule because these amendments would not involve any provisions that would impose backfits as defined in 10 CFR Chapter I. Therefore, a backfit analysis is not required.

VIII. Plain Language

The Presidential memorandum dated June 1, 1998, entitled "Plain Language in Government Writing," published on June 10, 1998 (63 FR 31883) directed that the Government's documents be in plain, clear, and accessible language. The NRC requests comments on the proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the NRC as explained in the **ADDRESSES** caption of this document.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

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; the Energy Policy Act of 2005, and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552; sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10143(f)), sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183i, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as

amended (42 U.S.C. 2201(b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Section 2.205(j) also issued under Pub. L. 101–410, 104 Stat. 90, as amended by section 3100(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554.

Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97—425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133), and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553, and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K 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). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Subpart M also issued under sec. 184 (42 U.S.C. 2234) and sec. 189, 68 stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.4, a definition of Potential party is added in alphabetical order to read as follows:

§ 2.4 Definitions.

* * * * *

Potential party means any person who has requested, or who may intend to request, a hearing or petition to intervene in a hearing under 10 CFR part 2, other than hearings conducted pursuant to Subparts J and M of Part 2.

* * * * *

3. Section 2.311 is revised to read as follows:

§ 2.311 Interlocutory review of rulings on requests for hearings/petitions to intervene, selection of hearing procedure, and requests by potential parties for access to sensitive unclassified non-safeguards information and safeguards information.

(a) An order of the presiding officer, or if a presiding officer has not been designated, of the Chief Administrative Judge, or if he or she is unavailable, of another administrative judge, or of an administrative law judge with jurisdiction pursuant to § 2.318(a), may be appealed to the Commission with respect to:

(1) A request for hearing,

(2) A petition to intervene, or

(3) A request for access to sensitive unclassified non-safeguards information (SUNSI), including, but not limited to, proprietary, confidential commercial, and security-related information, and Safeguards Information (SGI). An appeal to the Commission may also be taken from an order of an officer designated to rule on information access issues.

(b) These appeals must be made in accordance with the provisions of this section, within ten (10) days after the service of the order. The appeal must be initiated by the filing of a notice of appeal and accompanying supporting brief. Any party who opposes the appeal may file a brief in opposition to the appeal within ten (10) days after service of the appeal. The supporting brief and any answer must conform to the requirements of § 2.341(c)(2). No other appeals from rulings on requests for hearings are allowed.

(c) An order denying a petition to intervene, and/or request for hearing, or a request for access to the information described in paragraph (a) of this section, is appealable by the requestor/petitioner on the question as to whether the request and/or petition should have been granted.

(d) An order granting a petition to intervene, and/or request for hearing, or a request for access to the information described in paragraph (a) of this section, is appealable by a party other than the requestor/petitioner on the question as to:

(1) Whether the request/petition should have been wholly denied, or

(2) Whether the request for access to the information described in paragraph (a)(3) of this section should have been denied in whole or in part.

(e) An order selecting a hearing procedure may be appealed by any party on the question as to whether the selection of the particular hearing procedures was in clear contravention of the criteria set forth in § 2.310. The appeal must be filed with the Commission no later than ten (10) days after issuance of the order selecting a hearing procedure.

Dated at Rockville, Maryland, this 5th day of June 2007.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 07–2884 Filed 6–8–07; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM368 Special Conditions No. 25–07–05–SC]

Special Conditions: Boeing Model 787–8 Airplane; Crashworthiness

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Boeing Model 787–8 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These novel or unusual design features are associated with carbon fiber reinforced plastic used in the construction of the fuselage. For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards for impact response characteristics to ensure survivable crashworthiness. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of the Boeing 787–8 airplanes.

DATES: Comments must be received on or before July 26, 2007.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM368, 1601 Lind Avenue SW., Renton, Washington 98057–3356; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked Docket No. NM368. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Ian Won, FAA, Airframe/Cabin Safety, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2145; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive as well as a report summarizing each substantive public

contact with FAA personnel concerning these proposed special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this notice between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change the proposed special conditions based on comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On March 28, 2003, Boeing applied for an FAA type certificate for its new Boeing Model 787–8 passenger airplane. The Model 787–8 airplane will be an all-new, two-engine jet transport airplane with a two-aisle cabin. The maximum takeoff weight will be 476,000 pounds, with a maximum passenger count of 381 passengers.

Type Certification Basis

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

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

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

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

Novel or Unusual Design Features

The 787 airplane will incorporate a number of novel or unusual design features. Because of rapid improvements in airplane technology, the applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions for the 787 contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

The 787 fuselage will be fabricated with carbon fiber reinforced plastic (CFRP) semi-monocoque construction, consisting of skins with co-cured longitudinal stringers and mechanically fastened circumferential frames. This is a novel and unusual design feature for a large transport category airplane certificated under 14 CFR part 25. Structure fabricated from CFRP may behave differently than metallic structure because of differences in material ductility, stiffness, failure modes, and energy absorption characteristics. Therefore, impact response characteristics of the 787 must be evaluated to ensure that its survivable crashworthiness characteristics provide approximately the same level of safety as those of a similarly sized airplane fabricated from traditionally used metallic materials.

The FAA and industry have been working together for many years to understand how transport airplane occupant safety can be improved for what are considered survivable accidents. This work has involved examining airplane accidents, conducting tests to simulate crash conditions, and performing analytical modeling of a range of crash conditions, all with the purpose of providing further insight into factors that can influence occupant safety. Results of this on-going effort have enabled specific changes to regulatory standards and design practices to improve occupant safety. This evolution is reflected in changes to the part 25 Emergency Landing Conditions regulations. For example, airplane emergency load factors in § 25.561, General, have been increased. Passenger seat dynamic load conditions have been added (§ 25.562, Emergency Landing Dynamic Conditions).

The seat dynamic conditions were added to the regulations based on FAA and industry tests and a review of accidents. These seat dynamic conditions reflect the environment for passengers and the airframe during a crash event. They are based on data gathered from accidents of previously certificated airplanes given conditions that were survivable. Tests of previously certificated airplanes demonstrated that performance of the airframe was acceptable in a survivable crash event. We continually update our requirements as such new information becomes available. In the context of this evolution of the regulations, there is at present no specific dynamic regulatory requirement for airplane-level crashworthiness. However, the FAA reviews the design of each new airplane model to determine if it incorporates novel or unusual design features that may have a significant influence on the crash dynamics of the airframe. The Administrator prescribes special conditions for the airplane model if the applicable airworthiness regulations do not contain adequate or appropriate safety standards because of the novel or unusual design feature. Because of the novel design features of the 787, the FAA intends to require Boeing to conduct an assessment to ensure that the 787 will not have dynamic characteristics that differ significantly from those found in previously certificated designs.

The nature of this proposed design assessment is largely dependent on the similarities and differences between the new type design and previously certificated airplanes. Such an assessment ensures that the level of safety of the new type design is commensurate with that implicitly assumed in the existing regulations, and achieved by airplane designs previously certificated. If significant trends in industry warrant change to the existing regulations, the FAA may use its rulemaking process in collaboration with industry to develop an appropriate dynamic regulatory requirement for airplane level crashworthiness.

The FAA and industry have collected a significant amount of experimental data as well as data from crashes of transport category airplanes that demonstrates a high occupant survival rate at vertical descent velocities up to 30 ft/sec. The majority of this data was collected on narrow-body (single aisle) transport category airplanes. Based on this information, the FAA finds it appropriate and necessary for an assessment of the 787 to span a range of

airplane vertical descent velocities up to 30 ft/sec.

The FAA is proposing this special condition to maintain the level of safety envisioned in the existing airworthiness standards under foreseeable survivable impact events.

Discussion of Proposed Special Condition

In order to provide the same level of safety as exists with conventional airplane construction, Boeing must demonstrate that the 787 has sufficient crashworthiness capabilities under foreseeable survivable impact events. To demonstrate this, Boeing would have to evaluate the impact response characteristics of the 787 to ensure that its crashworthiness characteristics are not significantly different from those of a similarly sized airplane fabricated from traditionally used metals. If the evaluation shows that the 787 impact response characteristics are significantly different, Boeing would have to make design changes to bring the different impact response characteristics in line with those of a similarly sized metal construction airplane, or incorporate mitigating design features.

Factors in crash survivability are retention of items of mass, maintenance of occupant emergency egress paths, maintenance of acceptable acceleration and loads experienced by the occupants, and maintenance of a survivable volume. In reviewing available data from accidents, tests simulating crash conditions, and analytical modeling of a range of crash conditions, the FAA has concluded that the airplane performance should be evaluated over a range of airplane level vertical impact velocities up to 30 ft/sec.

If the 787 impact characteristics differ significantly from those of a previously certificated wide body transport, this would result in a need to meet load factors higher than those defined in 14 CFR 25.561 in order to maintain the same level of safety for the occupants, in terms of retention of items of mass. In the cases of acceleration and loads experienced by the occupants, means would have to be incorporated to reduce load levels experienced by those occupants to the injury criteria levels of § 25.562, or load levels of a previously certificated comparable airplane, in order to maintain the same level of safety for the occupants.

Applicability

As discussed above, these proposed special conditions are applicable to the 787 airplane. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these proposed special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features of the 787 airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these Special Conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Administrator of the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Boeing Model 787–8 airplane.

The Boeing Model 787–8 must provide an equivalent level of occupant safety and survivability to that provided by previously certificated wide-body transports of similar size under foreseeable survivable impact events for the following four criteria. In order to demonstrate an equivalent level of occupant safety and survivability, the applicant must demonstrate that the Model 787–8 meets the following criteria for a range of airplane vertical descent velocities up to 30 ft/sec.

1. Retention of items of mass. The occupants, i.e., passengers, flight attendants and flightcrew, must be protected during the impact event from release of seats, overhead bins, and other items of mass due to the impact loads and resultant structural deformation of the supporting airframe and floor structures. The applicant must show that loads due to the impact event and resultant structural deformation of the supporting airframe and floor structure at the interface of the airplane structure to seats, overhead bins, and other items of mass are comparable to those of previously certificated wide-body transports of similar size for the range of descent velocities stated above. The attachments of these items need not be designed for static emergency landing loads in excess of those defined in § 25.561 if impact response characteristics of the Boeing Model 787–8 yield load factors at the attach points that are comparable to those for a previously certificated wide-body transport category airplane.

2. Maintenance of acceptable acceleration and loads experienced by the occupants. The applicant must show that the impact response characteristics of the 787, specifically the vertical acceleration levels experienced at the seat/floor interface and loads experienced by the occupants during the impact events, are consistent with those found in § 25.562(b) or with levels expected for a previously certificated wide-body transport category airplane for the conditions stated above.

3. Maintenance of a survivable volume. For the conditions stated above, the applicant must show that all areas of the airplane occupied for takeoff and landing provide a survivable volume comparable to that of previously certificated wide-body transports of similar size during and after the impact event. This means that structural deformation will not result in infringement of the occupants' normal living space so that passenger survivability will not be significantly affected.

4. Maintenance of occupant emergency egress paths. The evacuation of occupants must be comparable to that from a previously certificated wide-body transport of similar size. To show this, the applicant must show that the suitability of the egress paths, as determined following the vertical impact events, is comparable to the suitability of the egress paths of a comparable, certificated wide-body transport, as determined following the same vertical impact events.

Issued in Renton, Washington, on May 31, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–11153 Filed 6–8–07; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM367 Special Conditions No. 25–07–04–SC]

Special Conditions: Boeing Model 787–8 Airplane; Tire Debris Penetration of Fuel Tank Structure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Boeing Model 787–8 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness

standards for transport category airplanes. These design features include wing fuel tanks constructed of carbon fiber composite materials. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of the Boeing Model 787–8 airplanes.

DATES: Comments must be received on or before July 26, 2007.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, *Attention:* Rules Docket (ANM–113), Docket No. NM367, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked Docket No. NM367. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mike Dostert, FAA, Propulsion/Mechanical Systems, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2132; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this notice between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change the proposed special conditions based on comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On March 28, 2003, Boeing applied for an FAA type certificate for its new Boeing Model 787–8 passenger airplane. The Boeing Model 787–8 airplane will be an all-new, two-engine jet transport airplane with a two-aisle cabin. The maximum takeoff weight will be 476,000 pounds, with a maximum passenger count of 381 passengers.

Type Certification Basis

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

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

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

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

Novel or Unusual Design Features

The 787 will incorporate a number of novel or unusual design features. Because of rapid improvements in airplane technology, the applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions for the 787 contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

The 787 will use carbon fiber composite materials for most of the wing fuel tank structure. The ability of aluminum wing skins, as has been conventionally used, to resist penetration or rupture when impacted by tire debris is understood from extensive experience. The ability of carbon fiber composite material construction to resist these hazards has not been established, and thus there are no current airworthiness standards specifically addressing this hazard for all the exposed wing surfaces.

The FAA is proposing these special conditions to maintain the level of safety envisioned in the existing airworthiness standards by proposing a standard for resistance to potential tire debris impacts to the 787 contiguous wing surfaces.

Discussion

Historically, accidents have resulted from uncontrolled fires caused by fuel leaks following penetration or rupture of the lower wing by fragments of tires or from uncontained engine failure.

In one incident, in Honolulu, Hawaii, a tire on a Boeing Model 747 burst and tire debris penetrated a fuel tank access cover, causing a substantial fuel leak. Takeoff was aborted and passengers were evacuated down the emergency chutes into pools of fuel which fortunately had not ignited.

This accident highlighted deficiencies in the then-existing title 14 CFR part 25 regulations pertaining to fuel retention following impact to fuel tanks by tire fragments. After a subsequent Boeing Model 737 accident in Manchester, England, in which a fuel tank access panel was penetrated by engine debris, the FAA amended § 25.963 to require that fuel tank access panels be resistant to both tire and engine debris. An amendment to title 14 CFR part 121 required operators to modify their existing fleets of airplanes with impact resistant access panels. The amendment only addressed fuel tank access covers since service experience at the time indicated that the lower wing skin of a conventional, subsonic airplane provided adequate, inherent capability to resist tire and engine debris threats. Section 25.963(e) requires showing by analysis or tests that fuel tank access covers, "* * * minimize penetration and deformation by tire fragments, low energy engine debris, or other likely

debris." Advisory Circular (AC) 25.963–1 defines the region of the wing that is vulnerable to impact damage from these sources and provides a method to substantiate that the rule has been met for tire fragments. No specific requirements were established for the contiguous wing areas into which the access covers are installed because of the inherent ability of conventional aluminum wing skins to resist penetration by tire debris. AC 25.963–1 specifically notes, "The access covers, however, need not be more impact resistant than the contiguous tank structure," highlighting the assumption that wing basic structures meet some higher standard.

However, in another event in 2000, on the Concorde airplane, an unanticipated failure mode occurred when tire debris impacted the fuel tank. The skin on the unique delta wing design of this supersonic airplane is made of titanium, with a thickness much less than that of the skin on a conventional subsonic airplane. The initial impact of the tire debris did not penetrate the fuel tank, but a pressure wave caused by the tire impact caused the fuel tank to rupture. Regulatory authorities subsequently required modifications to Concorde airplanes to add a means to retain fuel if the primary fuel retention means was damaged.

In order to maintain the level of safety envisioned by 14 CFR 25.963(e), these special conditions propose a standard for resistance to potential tire debris impacts to the contiguous wing surfaces and require consideration of possible secondary effects of a tire impact, such as the induced pressure wave that was a factor in the Concorde accident. It takes into account that new construction methods and materials will not necessarily yield debris resistance that has historically been shown as adequate. The proposed standard is based on the defined tire impact areas and tire fragment characteristics described in AC 25.963–1.

In addition, despite practical design considerations, some exceptional debris larger than that defined in paragraph (b) may cause a fuel leak within the defined area, so paragraph (c) of these proposed special conditions also takes into consideration possible leakage paths. Fuel tank surfaces of typical transport airplanes have thick aluminum construction in the tire debris impact areas that is tolerant to tire debris larger than that defined in paragraph (b) of these special conditions. Consideration of leaks caused by larger tire fragments is needed to ensure that an adequate level of safety is provided.

Note: While § 25.963 includes consideration of uncontained engine debris, the effects of engine debris are not included in these special conditions because this hazard will be addressed on the 787 under the existing requirements of § 25.903(d). Section 25.903(d) requires minimizing the hazards from uncontained engine debris.

Applicability

As discussed above, these proposed special conditions are applicable to the 787. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these proposed special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features of the 787. It is not a rule of general applicability, and it affects only the applicant that applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these Special Conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Administrator of the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Boeing Model 787–8 airplane.

Debris Impacts to Fuel Tanks

(a) Impacts by tire debris to any fuel tank or fuel system component located within 30 degrees to either side of wheel rotational planes may not result in penetration or otherwise induce fuel tank deformation, rupture (for example, through propagation of pressure waves), or cracking sufficient to allow a hazardous fuel leak. A hazardous fuel leak results if debris impact to a fuel tank surface causes—

1. a running leak,
2. a dripping leak, or
3. a leak that, 15 minutes after wiping dry, results in a wetted airplane surface exceeding 6 inches.

The leak must be evaluated under maximum fuel head pressure.

(b) Compliance with paragraph (a) must be shown by analysis or tests assuming all of the following.

1. The tire debris fragment size is 1 percent of the tire mass.
2. The tire debris fragment is propelled at a tangential speed that could be attained by a tire tread at the airplane flight manual airplane rotational speed (VR at maximum gross weight).
3. The tire debris fragment load is distributed over an area on the fuel tank surface equal to 1½ percent of the total tire tread area.

(c) Fuel leaks caused by impact from tire debris larger than that specified in paragraph (b), from any portion of a fuel tank located within the tire debris impact area, may not result in hazardous quantities of fuel entering any of the following areas of the airplane.

1. Engine inlet,
2. APU inlet, or
3. Cabin air inlet.

This must be shown by test or analysis, or a combination of both, for each approved engine forward thrust condition and each approved reverse thrust condition.

Issued in Renton, Washington, on May 31, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–11150 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28372; Directorate Identifier 2007–NM–080–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300F4–605R and A300F4–622R Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

Further to cases of parking brake loss at the gate, a pressure switch system had been introduced on some A300–600 aircraft. The aim of this modification was to recover pedals braking authority if parking brake is not efficient, without having to set the parking brake handle to OFF.

However, it appears that in case of failure of the pressure switch system, there is the risk of double (normal and alternate) pressurization of the brakes potentially leading to undetected residual braking, which may lead to a loss of performances of the aircraft at Take-Off.

The loss of performance could result in runway overrun or impact with obstacles or terrain during takeoff. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by July 11, 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) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This 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–2007–28372; Directorate Identifier 2007–NM–080–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://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 European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2007–0068, dated March 14, 2007 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Further to cases of parking brake loss at the gate, a pressure switch system had been introduced on some A300–600 aircraft. The aim of this modification was to recover pedals braking authority if parking brake is not efficient, without having to set the parking brake handle to OFF.

However, it appears that in case of failure of the pressure switch system, there is the risk of double (normal and alternate) pressurization of the brakes potentially leading to undetected residual braking, which may lead to a loss of performances of the aircraft at Take-Off.

This new AD requires accomplishment of a wiring modification that will inhibit the effect of modifications 12088 and 12403.

The loss of performance could result in runway overrun or impact with obstacles or terrain during takeoff. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Service Bulletin A300–32–6100, dated September 18, 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 This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 51 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Where the service information lists required labor costs that are covered under warranty at the operator's agreed in-house warranty labor rate, 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 $12,240, or $240 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2007–28372; Directorate Identifier 2007–NM–080–AD.

Comments Due Date

(a) We must receive comments by July 11, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300F4–605R and A300F4–622R airplanes; certificated in any category; all serial numbers; on which Airbus Modifications 12088 and 12403 have been embodied during production, or which incorporated Airbus Service Bulletin A300–32–6085 in service, except airplanes on which Airbus Modification 12618 has been embodied during production, or which incorporated Airbus Service Bulletin A300–32–6100 in service.

Subject

(d) Landing Gear.

Reason

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

Further to cases of parking brake loss at the gate, a pressure switch system had been introduced on some A300–600 aircraft. The aim of this modification was to recover pedals braking authority if parking brake is not efficient, without having to set the parking brake handle to OFF.

However, it appears that in case of failure of the pressure switch system, there is the risk of double (normal and alternate) pressurization of the brakes potentially leading to undetected residual braking, which may lead to a loss of performances of the aircraft at Take-Off.

This new AD requires accomplishment of a wiring modification that will inhibit the effect of modifications 12088 and 12403.

The loss of performance could result in runway overrun or impact with obstacles or terrain during takeoff.

Actions and Compliance

(f) Within 3 months after the effective date of this AD unless already done: Modify the wiring in the right electronics rack 90VU (volt unit), in accordance with the instructions of Airbus Service Bulletin A300–32–6100, dated September 18, 2006.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Stafford, Aerospace Engineer, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2007–0068, dated March 14, 2007; and Airbus Service Bulletin A300–32–6100, dated September 18, 2006; for related information.

Issued in Renton, Washington, on June 1, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–11198 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28371; Directorate Identifier 2007–NM–040–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

[A] roll spoiler cable failure could result in an unacceptable amount of roll spoiler deflection, which could result in reduced controllability of the aircraft.

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

DATES: We must receive comments on this proposed AD by July 11, 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) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ezra Sasson, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7320; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This 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–2007–28371; Directorate Identifier 2007–NM–040–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://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

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2006–13, dated June 6, 2006 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> It has been identified that a roll spoiler cable failure could result in an unacceptable amount of roll spoiler deflection, which could result in reduced controllability of the aircraft. To address this condition, Modsum 8Q100898 has been issued to introduce a spoiler cable disconnect sensing device. This modification has been installed in production on aircraft serial numbers 562 and subsequent. An associated operational check has also been introduced (See Note 1 [of the MCAI]).
>
> In addition, Modsum 8Q101443 has been issued to address a potential spoiler cable interference condition on aircraft serial numbers 003 through 123, 125 through 130, 132 through 136, 138 and 139, which do not yet have a spoiler cable tension regulator (Mod[ification] 8/0708) installed.
>
> Following incorporation of the spoiler cable disconnect sensing device on several aircraft, it was noted that, in the event of a spoiler cable failure, only the ROLL SPLR INBD HYD caution light will be illuminated until the aircraft speed decreases below 135 kts (knots), at which time the ROLL SPLR OUTBD HYD caution light will also be illuminated. Modsum 8Q101445 has been issued to rework the sensing circuit caution light indication to ensure that it is consistent for spoiler cable disconnects above and below 135 kts. This modification has been installed in production on aircraft serial numbers 600 and subsequent.

The corrective action includes installing a spoiler cable disconnect sensing device; correcting a potential spoiler cable interference condition; and reworking the spoiler cable disconnect sensing circuit; as applicable. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier has issued Service Bulletins 8–27–89, Revision 'E,' dated January 27, 2005; and 8–27–103, Revision 'B,' dated January 24, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 166 products of U.S. registry. We also estimate that it would take about 13 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $1,000 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 $338,640, or $2,040 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2007–28371; Directorate Identifier 2007–NM–040–AD.

Comments Due Date

(a) We must receive comments by July 11, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes; certificated in any category; serial numbers 003 through 599.

Subject

(d) Flight controls.

Reason

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

It has been identified that a roll spoiler cable failure could result in an unacceptable amount of roll spoiler deflection, which could result in reduced controllability of the aircraft. To address this condition, Modsum 8Q100898 has been issued to introduce a spoiler cable disconnect sensing device. This modification has been installed in production on aircraft serial numbers 562 and subsequent. An associated operational check has also been introduced (See Note 1 [of the MCAI]).

In addition, Modsum 8Q101443 has been issued to address a potential spoiler cable interference condition on aircraft serial numbers 003 through 123, 125 through 130, 132 through 136, 138 and 139, which do not yet have a spoiler cable tension regulator (Mod[ification] 8/0708) installed.

Following incorporation of the spoiler cable disconnect sensing device on several aircraft, it was noted that, in the event of a spoiler cable failure, only the ROLL SPLR INBD HYD caution light will be illuminated until the aircraft speed decreases below 135 kts (knots), at which time the ROLL SPLR OUTBD HYD caution light will also be illuminated. Modsum 8Q101445 has been issued to rework the sensing circuit caution light indication to ensure that it is consistent for spoiler cable disconnects above and below 135 kts. This modification has been installed in production on aircraft serial numbers 600 and subsequent.

The corrective action includes installing a spoiler cable disconnect sensing device; correcting a potential spoiler cable interference condition; and reworking the spoiler cable disconnect sensing circuit; as applicable.

Actions and Compliance

(f) Within 24 months after the effective date of this AD unless already done, do the following actions.

(1) Applicable to airplane serial numbers 124, 131, 137, and 140 through 561: Incorporate Modsum 8Q100898 to install the spoiler cable disconnect sensing device. Bombardier Service Bulletin 8–27–89, Revision "E," dated January 27, 2005, provides approved instructions for incorporating Modsum 8Q100898. (See paragraph (f)(4) of this AD.)

(2) Applicable to airplane serial numbers 003 through 123, 125 through 130, 132 through 136, 138, and 139: Incorporate Modsums 8Q100898 and 8Q101443 to install the spoiler cable disconnect sensing device and to correct potential spoiler cable interference condition. Bombardier Service Bulletin 8–27–89, Revision "E," dated January 27, 2005, provides approved instructions for incorporating Modsums 8Q100898 and 8Q101443. (See paragraphs (f)(4) and (f)(5) of this AD.)

(3) Applicable to airplane serial numbers 003 thorough 599: Incorporate Modsum 8Q101445 to rework the spoiler cable disconnect sensing circuit. Bombardier Service Bulletin 8–27–103, Revision "B," dated January 24, 2007, provides approved instructions for incorporating Modsum 8Q101445. (See paragraph (f)(6) of this AD.) If Modsum 8Q100898 has not yet been incorporated, incorporate Modsum 8Q101445 in conjunction with Modsum 8Q100898. Refer to paragraph (f)(1) or (f)(2) of this AD, as applicable.

Note 1: The mandatory operational check requirement for the spoiler cable disconnect system (Modsum 8Q100898) is detailed in Task Number 2760/14, dated November 21, 2003, of Part 2 of the applicable de Havilland Dash 8 Maintenance Program Manual (MPM), Airworthiness Limitations (AWL). It was introduced by de Havilland Dash 8 Temporary Revisions AWL–88 (series 100), AWL 2–28 (series 200), and AWL 3–95 (series 300), all dated August 5, 2004. Temporary Revision AWL–88 (Task Number 2760/14) has since been incorporated in Revision 17, dated April 19, 2005, of Part 2 of the AWLs of the MPM for Model DHC–8–100 series airplanes.

(4) Installation of Modsum 8Q100898, in accordance with Bombardier Service Bulletin 8–27–89, dated January 31, 2002; Revision "A," dated September 10, 2002; Revision "B," dated November 17, 2003; Revision "C," dated March 10, 2004; or Revision "D," dated June 29, 2004; also meets the requirements of paragraphs (f)(1) and (f)(2) of this AD.

(5) Installation of Modsum 8Q101443, in accordance with Bombardier Service Bulletin 8–27–89, Revision "C," dated March 10, 2004; or Revision "D," dated June 29, 2004; also meets the requirements of paragraph (f)(2) of this AD for this particular Modsum.

(6) Installation of Modsum 8Q101445, in accordance with Bombardier Service Bulletin 8–27–103, dated November 5, 2003; or Revision "A," dated February 12, 2004; also meets the requirements of paragraph (f)(3) of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Ezra Sasson, Aerospace Engineer; New York ACO, FAA, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7320; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF–2006–13, dated June 6, 2006; Bombardier Service Bulletin 8–27–89, Revision "E," dated January 27, 2005; and Bombardier Service Bulletin 8–27–103, Revision "B," dated January 24, 2007; for related information.

Issued in Renton, Washington, on June 1, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–11199 Filed 6–8–07; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 2

[Docket No. 2006N–0454]

RIN 0910–AF93

Use of Ozone-Depleting Substances; Removal of Essential-Use Designations

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA), after consultation with the Environmental Protection Agency (EPA), is proposing to amend FDA's regulation on the use of ozone-depleting substances (ODSs) in self-pressurized containers to remove the essential-use designations for oral pressurized metered-dose inhalers (MDIs) containing flunisolide, triamcinolone, metaproterenol, pirbuterol, albuterol and ipratropium in combination, cromolyn, and nedocromil. Under the Clean Air Act, FDA, in consultation with the EPA, is required to determine whether an FDA-regulated product that releases an ODS is an essential use of the ODS. Therapeutic alternatives that do not use an ODS are currently marketed and appear to provide all of the important public health benefits of the listed drugs. If the applicable essential-use designations are removed, flunisolide, triamcinolone, metaproterenol, pirbuterol, albuterol and ipratropium in combination, cromolyn, and nedocromil MDIs containing an ODS could not be marketed after a suitable transition period. We will hold an open public meeting on removing these essential-use designations in the near future.

DATES: Submit written or electronic comments by August 10, 2007.

ADDRESSES: You may submit comments, identified by Docket No. 2006N–0454, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.

Written Submissions

Submit written submissions in the following ways:

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

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

Instructions: All submissions received must include the agency name and Docket No(s). and Regulatory Information Number (RIN) (if a RIN number has been assigned) for this rulemaking. All comments received may be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents, comments, a transcript of, and material submitted for, the Pulmonary-Allergy Advisory Committee meeting held on June 10, 2005, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number(s), found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Wayne H. Mitchell or Martha Nguyen, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

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I. Background

A. CFCs

Chlorofluorocarbons (CFCs) are organic compounds that contain carbon, chlorine, and fluorine atoms. CFCs were first used commercially in the early 1930s as a replacement for hazardous materials then used in refrigeration, such as sulfur dioxide and ammonia. Subsequently, CFCs were found to have a large number of uses, including as solvents and as propellants in self-pressurized aerosol products, such as MDIs.

CFCs are very stable in the troposphere, the lowest part of the atmosphere. They move to the stratosphere, a region that begins about 10 to 16 kilometers (km) (6 to 10 miles) above the Earth's surface and extends up to about 50 km (31 miles) altitude. Within the stratosphere, there is a zone about 15 to 40 km (10 to 25 miles) above the Earth's surface in which ozone is relatively highly concentrated. This zone in the stratosphere is generally called the ozone layer. Once in the stratosphere, CFCs are gradually broken down by strong ultraviolet light, releasing chlorine atoms that then deplete stratospheric ozone. Depletion of stratospheric ozone by CFCs and other ODSs allows more ultraviolet-B (UV-B) radiation to reach the Earth's surface, where it increases skin cancers and cataracts, and damages some marine organisms, plants, and plastics.

B. Regulation of ODSs

The link between CFCs and the depletion of stratospheric ozone was discovered in the mid–1970s. Since 1978, the U.S. Government has pursued a vigorous and consistent policy, through the enactment of laws and regulations, of limiting the production, use, and importation of ODSs, including CFCs.

1. The 1978 Rules

In the **Federal Register** of March 17, 1978 (43 FR 11301 at 11318), FDA and EPA published rules banning, with a few exceptions, the use of CFCs as propellants in aerosol containers. These rules were issued under authority of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321 *et seq.*) and the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*), respectively. FDA's rule (the 1978 rule) was codified as § 2.125 (21 CFR 2.125). These rules issued by FDA and EPA had been preceded by rules issued by FDA and the Consumer Product Safety Commission requiring products that contain CFC propellants to bear environmental warning statements on their labeling (42 FR 22018, April 29, 1977; 42 FR 42780, August 24, 1977).

The 1978 rule prohibited the use of CFCs as propellants in self-pressurized containers in any food, drug, medical device, or cosmetic. As originally published, the rule listed five essential uses that were exempt from the ban. The second listed essential use was for "[m]etered-dose steroid human drugs for oral inhalation," and the third listed essential use was for "[m]etered-dose adrenergic bronchodilator human drugs for oral inhalation." These provisions describe flunisolide, triamcinolone, and pirbuterol MDIs, so the list of essential uses did not have to be amended when these products were approved by FDA.[1]

The 1978 rule provided criteria for adding new essential uses, and several uses were added to the list, the last one in 1996. The 1978 rule did not provide any mechanism for removing essential uses from the list as alternative products were developed or CFC-containing products were removed from the market. The absence of a removal procedure came to be viewed as a deficiency in the 1978 rule, and was addressed in a later rulemaking, discussed in section II.C.5 of this document.

2. The Montreal Protocol

On January 1, 1989, the United States became a party to the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol) (September 16, 1987, 26 I.L.M. 1541 (1987)), available at *http://www.unep.org/ozone/pdfs/Montreal-Protocol2000.pdf*.[2] The United States played a leading role in the negotiation of the Montreal Protocol, believing that internationally coordinated control of ozone-depleting substances would best protect both the U.S. and global public health and the environment from potential adverse effects of depletion of stratospheric ozone. Currently, there are 191 Parties to this treaty.[3] When it joined the treaty, the United States committed to reducing its production and consumption of certain CFCs to 50 percent of 1986 levels by 1998 (Article 2(4) of the Montreal Protocol). It also agreed to accept an "adjustment" procedure, by which, following assessment of the existing control measures, the Parties could adjust the scope, amount, and timing of those control measures for substances already subject to the Montreal Protocol. As the evidence regarding the impact of ODSs on the ozone layer became stronger, the Parties used this adjustment procedure to accelerate the phase-out of ODSs. At the fourth meeting of the Parties to the Montreal Protocol, held at Copenhagen in November 1992, the Parties adjusted Article 2 of the Montreal Protocol to eliminate the production and importation of CFCs by January 1, 1996, by Parties that are developed countries (Decision IV/2).[4] The adjustment also indicated that it would apply, "save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential" (Article 2A(4)).

To produce or import CFCs for an essential use under the Montreal Protocol, a Party must request and obtain approval for an exemption at a meeting of the Parties. One of the most important essential uses of CFCs under the Montreal Protocol is their use in MDIs for the treatment of asthma and chronic obstructive pulmonary disease (COPD). The decision on whether the use of CFCs in MDIs is "essential" for purposes of the Montreal Protocol turns on whether: "(1) It is necessary for the

[1] A metaproterenol MDI (Alupent MDI) was approved July 31, 1973, before the 1978 rule.

[2] FDA has verified all Web site addresses cited in this document, but FDA is not responsible for any subsequent changes to the Web sites after this document has published in the **Federal Register**.

[3] The summary descriptions of the Montreal Protocol and decisions of Parties to the Montreal Protocol contained in this document are presented here to help you understand the background of the action we are taking. These descriptions are not intended to be formal statements of policy regarding the Montreal Protocol. Decisions by the Parties to the Montreal Protocol are cited in this document in the conventional format of "Decision IV/2," which refers to the second decision recorded in the Report of the Fourth Meeting of the Parties to the Montreal Protocol on Substances That Deplete the Ozone Layer. Reports of meetings of the Parties to the Montreal Protocol may be found on the United Nations Environment Programme's Web site at *http://ozone.unep.org/Meeting_Documents/mop/index.asp*.

[4] Production of CFCs in economically less-developed countries is being phased out and is scheduled to end by January 1, 2010. See Article 2A of the Montreal Protocol.

health, safety, or is critical for the functioning of society (encompassing cultural and intellectual aspects) and (2) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health; * * * (Decision IV/25)."

Since 1994 the United States and some other Parties to the Montreal Protocol have annually requested, and been granted, essential-use exemptions for the production or importation of CFCs for their use in MDIs for the treatment of asthma and COPD (see, among others, Decisions VI/9 and VII/28). The exemptions have been consistent with the criteria established by the Parties, which make the grant of an exemption contingent on a finding that the use for which the exemption is being requested is essential for health, safety, or the functioning of society, and that there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of health or the environment (Decision IV/25).

Several decisions of the Parties have dealt with the transition to CFC-free MDIs, including the following decisions:

- Decision VIII/10 stated that the Parties that are developed countries would take various actions to promote industry's participation in a smooth and efficient transition away from CFC-based MDIs (San Jose, Costa Rica, 1996).
- Decision IX/19 required the Parties that are developed countries to present an initial national or regional transition strategy by January 31, 1999 (Montreal, Canada, 1997).
- Decision XII/2 elaborated on the content of national or regional transition strategies required under Decision IX/19 and indicated that any MDI for the treatment of asthma or COPD approved for marketing after 2000 would not be an "essential use," unless it met the criteria laid out by the Parties for essential uses (Ouagadougou, Burkina Faso, 2000).
- Decision XIV/5 requested that each Party report annually the quantities of CFC and non-CFC MDIs and dry-powder inhalers (DPIs) sold or distributed within its borders and the approval and marketing status of non-CFC MDIs and DPIs. Decision XIV/5 also noted "with concern the slow transition to CFC-free metered-dose inhalers in some Parties" (Rome, Italy, 2002).
- Decision XV/5 states that, at the 17th meeting of the Parties (in December 2005) or thereafter, no essential uses of CFCs will be authorized for Parties that are developed countries, unless the Party requesting the essential-use allocation has submitted an action plan for MDIs for which the sole active ingredient is albuterol. Among other items, the action plan should include a specific date by which the Party plans to cease requesting essential-use allocations of CFCs for albuterol MDIs to be sold or distributed in developed countries[5] (Nairobi, Kenya, 2003).
- Decision XVII/5 states that Parties that are developed countries should provide a date to the Ozone Secretariat[6] before the 18th meeting of the Parties (October 30 to November 3, 2006) by which time a regulation or regulations will have been proposed to determine whether MDIs, other than those that have albuterol as the only active ingredient, are non-essential (Dakar, Senegal, 2005).

3. The 1990 Amendments to the Clean Air Act

In 1990, Congress amended the Clean Air Act to, among other things, better protect stratospheric ozone (Public Law No. 101–549, November 15, 1990) (the 1990 amendments). The 1990 amendments were drafted to complement, and be consistent with, our obligations under the Montreal Protocol (see section 614 of the Clean Air Act (42 U.S.C. 7671m)). Section 614(b) of the Clean Air Act provides that, in the case of a conflict between any provision of the Clean Air Act and any provision of the Montreal Protocol, the more stringent provision will govern. Section 604 of the Clean Air Act required the phase-out of the production of CFCs by 2000 (42 U.S.C. 7671c),[7] while section 610 of the Clean Air Act (42 U.S.C. 7671i) required EPA to issue regulations banning the sale or distribution in interstate commerce of nonessential products containing CFCs. Sections 604 and 610 provide exceptions for "medical devices." Section 601(8) (42 U.S.C. 7671(8)) of the Clean Air Act defines "medical device" as

> any device (as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)), diagnostic product, drug (as defined in the Federal Food, Drug, and Cosmetic Act), or drug delivery system—
>
> (A) if such device, product, drug, or drug delivery system utilizes a class I or class II substance for which no safe and effective alternative has been developed, and where necessary, approved by the Commissioner [of Food and Drugs]; and
>
> (B) if such device, product, drug, or drug delivery system, has, after notice and opportunity for public comment, been approved and determined to be essential by the Commissioner [of Food and Drugs] in consultation with the Administrator [of EPA].

4. EPA's Implementing Regulations

EPA regulations implementing the Montreal Protocol and the stratospheric ozone protection provisions of the 1990 amendments are codified in part 82 of title 40 of the Code of Federal Regulations (40 CFR part 82). (See 40 CFR 82.1 for a statement of intent.) Like the 1990 amendments, EPA's implementing regulations contain two separate prohibitions, one on the production and import of CFCs (subpart A of 40 CFR part 82) and the other on the sale or distribution of products containing CFCs (40 CFR 82.66).

The prohibition on production and import of CFCs contains an exception for essential uses and, more specifically, for essential MDIs. The definition of essential MDI at 40 CFR 82.3 requires that the MDI be intended for the treatment of asthma or COPD, be essential under the Montreal Protocol, and if the MDI is for sale in the United States, be approved by FDA and listed as essential in FDA's regulations at 21 CFR 2.125.

The prohibition on the sale of products containing CFCs includes a specific prohibition on aerosol products and other pressurized dispensers. The aerosol product ban contains an exception for medical devices listed in § 2.125(e). The term "medical device" is used with the same meaning it was given in the 1990 amendments and includes drugs as well as medical devices.

5. FDA's 2002 Regulation

In the 1990s, we decided that § 2.125 required revision to better reflect our obligations under the Montreal Protocol, the 1990 amendments, and EPA's

[5] Our obligation under XV/5 was met by our final rule eliminating the essential-use status of albuterol, effective December 31, 2008 (70 FR 17168, April 4, 2005).

[6] The Ozone Secretariat is the Secretariat for the Montreal Protocol and the Vienna Convention for the Protection of the Ozone Layer (the Vienna Convention) (March 22, 1985, 26 I.L.M. 1529 (1985)), available at *http://hq.unep.org/ozone/pdfs/viennaconvention2002.pdf.*

Based at the United Nations Environment Programme (UNEP) offices in Nairobi, Kenya, the Secretariat functions in accordance with Article 7 of the Vienna Convention and Article 12 of the Montreal Protocol. The main duties of the Secretariat include: Arranging for and servicing the Conference of the Parties, meetings of the Parties, their committees, the bureaus, working groups, and assessment panels; Arranging for the implementation of decisions resulting from these meetings; Monitoring the implementation of the Vienna Convention and the Montreal Protocol; Reporting to the meetings of the Parties and to the Implementation Committee; Representing the Convention and the Protocol; and Receiving and analyzing data and information from the Parties on the production and consumption of ODSs.

[7] In conformance with the adjustment contained in Decision IV/2, EPA issued regulations accelerating the complete phase-out of CFCs, with exceptions for essential uses, to January 1, 1996 (58 FR 65018, December 10, 1993).

regulations, and to encourage the development of ozone-friendly alternatives to medical products containing CFCs. In particular, as acceptable alternatives that did not contain CFCs or other ODSs came on the market, there was a need to provide a mechanism for removing essential uses from the list in § 2.125(e). In the **Federal Register** of March 6, 1997 (62 FR 10242), we published an advance notice of proposed rulemaking (the 1997 ANPRM) in which we outlined our then-current thinking on the content of an appropriate rule regarding ODSs in products FDA regulates. We received almost 10,000 comments on the 1997 ANPRM. In response to the comments, we revised our approach and drafted a proposed rule published in the **Federal Register** of September 1, 1999 (64 FR 47719) (the 1999 proposed rule). We received 22 comments on the 1999 proposed rule. After minor revisions in response to these comments, we published a final rule in the **Federal Register** of July 24, 2002 (67 FR 48370) (the 2002 final rule) (corrected in 67 FR 49396, July 30, 2002, and 67 FR 58678, September 17, 2002). The 2002 final rule listed as a separate essential use each active moiety[8] marketed under the 1978 rule as essential uses for metered-dose steroid human drugs for oral inhalation and metered-dose adrenergic bronchodilator human drugs for oral inhalation; eliminated the essential-use designations in § 2.125(e) for metered-dose steroid human drugs for nasal inhalation and for products that were no longer marketed; set new standards to determine when a new essential-use designation should be added to § 2.125; and set standards to determine whether the use of an ODS in a medical product remains essential.

This rulemaking fulfills our obligation under § 2.125, as well as the Clean Air Act, the Montreal Protocol, and our general duty to protect the public health, by removing ODS products from the marketplace when those products are no longer essential.

II. Criteria

Among other changes, the 2002 final rule, in revised § 2.125(g)(2), establishes a standard for removing an essential-use designation for any drug after January 1, 2005, that would apply to a drug where there are no acceptable non-ODS alternatives with the same active moiety. This standard provides an incentive for manufacturers to reformulate their products in a timely manner. There are no acceptable non-ODS alternatives available that have the same active moieties as the products marketed under the essential uses that are the subject of this proposed rule; therefore, we are proceeding with this rulemaking under the provisions of § 2.125(g)(2). The process for removing the essential use designation under § 2.125(g)(2) includes a consultation with a relevant advisory committee and an open public meeting, in addition to a proposed rule and a final rule. The criterion established for removing the essential use in such circumstances is that it no longer meets the criteria specified in revised § 2.125(f) for adding a new essential use (§ 2.125(g)(2)). The criteria in § 2.125(f) for adding an essential use are:

(i) Substantial technical barriers exist to formulating the product without ODSs;

(ii) The product will provide an unavailable important public health benefit; and

(iii) Use of the product does not release cumulatively significant amounts of ODSs into the atmosphere or the release is warranted in view of the unavailable important public health benefit.

Because the three criteria in § 2.125(f) are linked by the word "and," failure to meet any single criterion results in a determination that the use is not essential.

We discussed these criteria in the preamble to the 1999 proposed rule. A key point in our discussion of technical barriers was: "Generally, FDA intends the term 'technical barriers' to refer to difficulties encountered in chemistry and manufacturing. A petitioner would have to establish that it evaluated all available alternative technologies and explain in detail why each alternative was deemed to be unusable to demonstrate that substantial technical barriers exist." (1999 proposed rule at 47721.)

In applying the "technical barriers" criteria, we look at the results of reformulation efforts for similar products as well as statements made about the manufacturer's particular efforts to reformulate their product.

Similarly, in discussing what is "an unavailable important public health benefit," we said: "The agency intends to give the phrase 'unavailable important public health benefit' a markedly different construction from the [phrase used in the 1978 rule] 'substantial health benefit.' A petitioner should show that the use of an ODS would save lives, significantly reduce or prevent an important morbidity, or significantly increase patient quality of life to support a claim of important public health benefit." (1999 proposed rule at 47722.)

One key point to note here is that we raised the hurdle for the public health benefit that needs to be shown. A use that was shown to have a "substantial health benefit" under the 1978 rule (all essential uses were established under the 1978 rule), will not necessarily be able to clear the higher hurdle of the 2002 final rule's "unavailable important public health benefit."

In determining if a drug product provides an otherwise unavailable important public health benefit, our primary focus is on the availability of non-ODS products that provide equivalent therapeutic benefits for patients who are currently using the CFC MDIs. If therapeutic alternatives exist for all patients using the CFC MDI, we would then determine that the CFC MDI does not provide an otherwise unavailable important public health benefit.

Under the third criterion, the essential use must be eliminated unless we find that use of the product does not release cumulatively significant amounts of ODSs into the atmosphere, or that the release, although cumulatively significant, is warranted in view of the otherwise unavailable important public health benefit that the use of the drug product provides. In evaluating whether continuing the essential-use designation of these MDIs would result in the products releasing significant quantities of ODSs, in light of past policy statements (2002 final rule p. 48380) and the current state of the phase-out of ODSs, we tentatively conclude that the release of CFCs from MDIs containing flunisolide, triamcinolone, metaproterenol, pirbuterol, albuterol and ipratropium in combination, cromolyn, and nedocromil would be significant. The reasons for this tentative conclusion are discussed in the following paragraphs.

The United States evaluated the environmental effect of eliminating the use of all CFCs in an environmental impact statement in the 1970s (see 43 FR 11301). As part of that evaluation, FDA concluded that the continued use

[8] Section 314.108(a) of the act (21 CFR 314.108(a)) defines "active moiety" as the molecule or ion, excluding those appended portions of the molecule that cause the drug to be an ester, salt (including a salt with hydrogen or coordination bonds), or other noncovalent derivative (such as a complex, chelate, or clathrate) of the molecule, responsible for the physiological or pharmacological action of the drug substance. When describing the various essential uses, we will generally refer to the active moiety, for example, cromolyn, as opposed to the active ingredient, which, using the same example, would be cromolyn sodium. When discussing particular indications and other material from the approved labeling of a drug product, we will generally use the brand name of the product, which, using the same example, would be INTAL MDI. In describing material from treatises, journals, and other non-FDA approved publications, we will generally follow the usage in the original publication.

of CFCs in medical products posed an unreasonable risk of long-term biological and climatic impacts (see Docket No. 1996N–0057 (formerly 96N–0057)). Congress later enacted provisions of the Clean Air Act that codified the decision to fully phase out the use of CFCs over time (see 42 U.S.C. 7671 *et seq.* (enacted November 15, 1990)). We note that the environmental impact of individual uses of nonessential CFCs must not be evaluated independently, but rather must be evaluated in the context of the overall use of CFCs. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7). Significance cannot be avoided by breaking an action down into small components (40 CFR 1508.27(b)(7)). Currently, MDIs for the treatment of asthma and COPD are the only legal use of newly produced or imported CFCs (see EPA 2006 Allocation rule). Although it may appear to some that the CFCs released from MDIs represent insignificant quantities of ODSs, and therefore should be exempted, the elimination of CFC use in MDIs is one of the final steps in the overall phase-out of CFC use. The release of ODSs from some of the MDIs may be relatively small compared to total quantities that were released 2 or 3 decades ago, but if each use that resulted in the release of relatively small quantities of ODSs were provided an exemption, the cumulative effect would be to prevent the elimination of ODS releasing products. This would prevent the full phase-out envisioned by the Clean Air Act and the Montreal Protocol. Therefore, we tentatively conclude that the release of ODSs from these MDIs is cumulatively significant.

Given this proposed finding, the essential use for each product must be eliminated under § 2.25(f)(1)(iii) unless we also find that the product provides an otherwise unavailable important health benefit which warrants the cumulatively significant release of the ODS.

As noted previously, because the three criteria in § 2.25(f)(1) are linked by the word "and," failure to meet any single criterion results in a determination that the use is not essential. Accordingly, if we find that any product fails to provide an otherwise unavailable important health benefit (criterion two), we would be required to find that the use of the product is not essential, and we would not need to reach the last step under the third criteria (balancing the important health benefit against the release of the ODS to determine if the release is warranted). Assuming, however that the first and second criteria in § 2.125(f) are met, because of our tentative conclusion that the release of ODSs from these MDIs is cumulatively significant, we would then need to conduct the balancing inquiry under the third criterion for that product.

The criteria in § 2.125(f)(1) we are using in this rulemaking, as cross-referenced in § 2.125(g)(2), are different from those in § 2.125(g)(3) and (g)(4). Section 2.125(g)(2) specifically addresses the situation where there is no other marketed product containing the same active moiety in a non-ODS formulation, while § 2.125(g)(3) and (4)[9] apply to situations where there is at least one other product marketed with the same active moiety in a non-ODS formulation. When we removed the essential-use designation for albuterol (70 FR 17168, April 4, 2005) we used the criteria found in § 2.125(g)(4) because there were more than one albuterol CFC MDI being marketed and there were two acceptable alternatives containing albuterol (Proventil HFA and Ventolin HFA) to the albuterol CFC MDIs. This contrasts to § 2.125(g)(2), which permits FDA to remove an essential use even if there are no alternatives available with the same active moiety, provided that sufficient alternative products with different active moieties exist to meet the needs of patients, because the essential use would then no longer provide an otherwise unavailable important health benefit. Therefore, the analyses we use here are not identical to the analyses we used under § 2.125(g)(4) in the albuterol rulemaking. In both the albuterol rulemaking and this rulemaking, the primary focus is on determining whether acceptable alternatives exist for the products that are marketed under the essential use, but with this rulemaking we are able to consider alternatives with different active moieties. Therefore, our analyses are similar, and we have found it useful to borrow concepts from the more specific provisions of § 2.125(g)(3) and (g)(4) to help give more structure to our analysis under the broader language of § 2.125(f)(1). In general, as explained in the preamble to the 1999 proposed rule, "FDA is requiring the existence of feasible alternatives that are acceptable from a health standpoint before it will find any CFC–MDI no longer essential." (1999 proposed rule at 47736.) Thus, we request comment on whether the available alternatives for each of the seven moieties are acceptable from a public health perspective.

III. Effective Date

We are proposing that any rule finalizing the removal of an essential use proposed in this document have an effective date of December 31, 2009. In determining the appropriate effective date or dates for this rulemaking, we will consider not only whether therapeutic alternatives are on the market but also whether adequate production capacity and supplies are available to meet the new, presumably increased, demand for the therapeutic alternatives once products marketed under the old essential use are no longer sold. Depending on the data presented to us in the course of the rulemaking, we may determine that it is appropriate to have different effective dates for different uses.

In determining an appropriate effective date, we have kept in mind that albuterol HFA[10] MDIs are primary therapeutic alternatives to drugs produced under three of the essential uses described in this rule. Sales of the products marketed under those essential uses have totaled approximately 14

[9] The text of § 2.125(g)(3) and (4) is as follows:

(3) For individual active moieties marketed as ODS products and represented by one new drug application (NDA):

(i) At least one non-ODS product with the same active moiety is marketed with the same route of administration, for the same indication, and with approximately the same level of convenience of use as the ODS product containing that active moiety;

(ii) Supplies and production capacity for the non-ODS product(s) exist or will exist at levels sufficient to meet patient need;

(iii) Adequate U.S. postmarketing use data is available for the non-ODS product(s); and

(iv) Patients who medically required the ODS product are adequately served by the non-ODS product(s) containing that active moiety and other available products; or

(4) For individual active moieties marketed as ODS products and represented by two or more NDAs:

(i) At least two non-ODS products that contain the same active moiety are being marketed with the same route of delivery, for the same indication, and with approximately the same level of convenience of use as the ODS products; and

(ii) The requirements of paragraphs (g)(3)(ii), (g)(3)(iii), and (g)(3)(iv) of this section are met.

There are noteworthy procedural differences between § 2.125(g)(2) and § 2.125(g)(3) and (4). A rulemaking under § 2.125(g) (3) or (4) could have been started before January 1, 2005, and there is no requirement for either an advisory committee meeting or public meeting. The proposed rule for the removal of the essential-use designation for albuterol was published in the **Federal Register** of June 16, 2004 (69 FR 33602) and although the matter was discussed at a public meeting of the Pulmonary-Allergy Drug Advisory Committee on June 10, 2004, no separate public meeting on the matter was held.

[10] These albuterol inhalers use the non-ozone-depleting hydrofluoroalkane HFA-134a (usually referred to as HFA) as a propellant.

[11] Current information indicates that production of albuterol HFA MDIs will be adequate to meet the current demand for albuterol MDIs much earlier than December 31, 2008.

million MDIs a year. We are confident there will be adequate supplies of albuterol HFA MDIs to meet the needs of all current users of albuterol CFC MDIs by December 31, 2008 (the date on which albuterol MDIs will no longer be designated an essential use).[11] Although we have limited data on production increases above current demand for 2009 and later, we believe that, by December 31, 2009, albuterol HFA production will be able to meet any increased demand caused by this rulemaking. We specifically invite comments from manufacturers of albuterol HFA MDIs on this issue.

We also believe that a December 31, 2009 effective date is more than sufficient to allow patients to consult their health care providers and obtain prescriptions for therapeutic alternatives in an orderly fashion.

In proposing a December 31, 2009, effective date, we expect that 2009 would be a transition year characterized by declining production of the CFC MDIs that are the subject of this rule. If a December 31, 2009 effective date is established by this rulemaking, we anticipate that other administrative actions taken by EPA and FDA would reflect the concept of 2009 being a transition year.

The sale of remaining stocks of CFC MDIs by manufacturers, wholesalers, and retailers was a consideration in setting the effective date of the albuterol rule (70 FR 17168 and 17179). We believe that this consideration also is appropriate for this rulemaking. In evaluating the period of time that is needed to sell remaining stocks of the CFC MDIs that are the subject of this rulemaking, a factor that must be considered is the expiration dating for the relevant products. One product has an expiration date set at 18 months after manufacture, five products have dates set at 24 months, and three products' expiration dates are 30 months or more after production.[12] Prescription drug products, particularly those for chronic diseases such as asthma and COPD, are generally dispensed well before the expiration date, allowing the patients a significant amount of time to use the drugs before they reach their expiration dates. Therefore, we believe that all of the products with 18-month and 24-month expiration dates manufactured prior to publication of a final rule based on this proposal will have passed their expiration dates and been dispensed or destroyed by December 31, 2009. We invite comments on the relationship between expiration dates and the distribution and dispensing of the products that are the subject of the rulemaking.

IV. 2005 PADAC Meeting

As required by § 2.125(g)(2), we consulted an advisory committee before drafting this proposed rule. We consulted with FDA's Pulmonary and Allergy Drugs Advisory Committee (PADAC) at their July 14, 2005, meeting (2005 meeting) on the essential-use status of MDIs containing flunisolide, triamcinolone, metaproterenol, pirbuterol, albuterol and ipratropium in combination, cromolyn, and nedocromil. The opinions expressed by the PADAC members about each of these essential uses will be discussed below.[13]

This PADAC meeting should not be confused with the open public meeting that we will be holding in the near future on the essential-use status of these MDIs. We will publish a notice for the public meeting in the **Federal Register** shortly.

V. Drugs We Are Proposing as Nonessential

A. Flunisolide and Triamcinolone

We are proposing to remove the essential-use designations for MDIs containing flunisolide (AEROBID) and triamcinolone (AZMACORT). AEROBID and AZMACORT are orally inhaled corticosteroids. AZMACORT is the only currently marketed drug product that provides orally inhaled triamcinolone. AEROBID and AZMACORT are the only two orally inhaled corticosteroids marketed that contain ODSs. Both drugs are indicated for the maintenance treatment and prophylaxis of asthma in patients as young as 6 and both are prescription drugs. Flunisolide and triamcinolone, as well as other corticosteroids, are not indicated for relief of acute bronchospasm. Inflammation is an important component in the development of asthma. The anti-inflammatory actions of corticosteroids contribute to their efficacy in asthma. Though effective for the treatment of asthma, corticosteroids do not appreciably affect asthma symptoms immediately. Individual patients experience a variable time to onset and degree of symptom relief. Maximum benefit may not be achieved for 1 to 2 weeks or longer after starting treatment. AEROBID was approved on April 23, 1982, and AZMACORT was approved on August 17, 1984. Their use was considered essential under the 1978 rule, which stated that "[m]etered-dose steroid human drugs for oral inhalation" were essential. Flunisolide and triamcinolone were designated as essential as different active moieties in the 2002 rule. In addition to the ODS-containing AEROBID, AEROSPAN, a flunisolide HFA MDI, was approved January 27, 2006, but has not yet been introduced onto the market.

We have tentatively concluded that the following orally inhaled corticosteroid drug products, which do not contain ODSs, collectively provide adequate therapeutic alternatives to AEROBID and AZMACORT:

- Beclomethasone dipropionate MDI (QVAR),
- Budesonide DPI (PULMICORT TURBUHALER),
- Fluticasone propionate MDI (FLOVENT HFA), and
- Mometasone furoate DPI (ASMANEX TWISTHALER).

All of these drugs are indicated for the maintenance treatment and prophylaxis of asthma. All of the therapeutic alternatives have adequate safety profiles similar to those of AEROBID and AZMACORT. Our tentative conclusion that these four drugs collectively provide adequate therapeutic alternatives does not mean that each can be freely substituted for AEROBID and AZMACORT, or freely substituted one for another. Rather, we believe that at least one of those drugs should be an adequate therapeutic alternative for every patient currently using AEROBID or AZMACORT. There are significant differences among these drugs, for example FLOVENT HFA and ASMANEX TWISTHALER are both indicated for patients 12 and older, compared to AEROBID and AZMACORT, which are indicated for patients 6 and older. However, QVAR and PULMICORT TURBUHALER are indicated for patients as young as 5 and 6, respectively. With these two drugs, younger pediatric patients who used AEROBID and AZMACORT should be more than adequately served. There are other notable differences: ASMANEX TWISTHALER contains lactose; there is clinical data on the use of inhaled budesonide by pregnant women in labeling for PULMICORT TURBUHALER; QVAR and FLOVENT HFA are MDIs; ASMANEX TWISTHALER and PULMICORT TURBUHALER are different types of DPIs. All of these elements, and more, may factor into a decision on which drug product to substitute for AEROBID

[12] Nine different products, including two sizes of COMBIVENT and two flavors (plain and menthol) of AEROBID, are produced under the seven essential uses that are the subject of this rule.

[13] A transcript of the meeting and other meeting material is available on the Web at *http://www.fda.gov/ohrms/dockets/ac/cder05.html#PulmonaryAllergy*.

and AZMACORT for any individual patient.

A therapeutic alternative to AEROBID and AZMACORT, primarily for patients who are using both salmeterol and either AEROBID or AZMACORT, is the ADVAIR DPI which contains fluticasone propionate and another asthma drug salmeterol, in combination, which is available in various strengths. .

FDA has recently approved SYMBICORT, an HFA MDI combining budesonide and formoterol, a long-acting beta-agonist. This drug product is expected to enter the U.S. market in mid-2007 and would be a logical first option for patients using both formoterol (FORADIL) and either AEROBID or AZMACORT. However, the lack of postmarketing data and the unavailability of information on future production capacity and supplies for SYMBICORT means that we cannot consider at this time the expected availability of SYMBICORT as grounds for eliminating the essential use of flunisolide under § 2.125(g)(2). The expected availability of SYMBICORT was not considered a material issue in our tentative determination that flunisolide MDIs are not an essential use of ODSs: there are more than a sufficient number of therapeutic alternatives to AEROBID and AZMACORT without considering SYMBICORT.

We realize that inhaled corticosteroids are widely considered the drugs of choice, used in conjunction with other drugs, for treatment of severe persistent, moderate persistent, and mild persistent asthma in adults and children (Ref. 1, app. A–1).[14] However certain health care providers and patients, particularly in cases of mild persistent asthma, may decide to switch from AEROBID and AZMACORT to drugs other than inhaled corticosteroids. If these other drugs do not release ODSs, such as leukotriene modifiers and theophylline, then they also provide alternative therapies.

The recently approved AEROSPAN (flunisolide HFA MDI) may also be a therapeutic alternative to AEROBID and AZMACORT. However, as previously noted with SYMBICORT, the lack of postmarketing data and the unavailability of information on future production capacity and supplies for AEROSPAN mean that we cannot consider at this time the availability of AEROSPAN as grounds for eliminating the essential use of flunisolide under § 2.125(g)(3). The availability of AEROSPAN was not considered a material issue in our tentative determination that flunisolide MDIs are not an essential use of ODSs: there are more than a sufficient number of therapeutic alternatives to AEROBID and AZMACORT without considering AEROSPAN. However, we do solicit comments on postmarketing data for AEROSPAN and its suitability as an alternative to AEROBID and AZMACORT.

PADAC members expressed the opinion, without dissent, that flunisolide and triamcinolone were no longer essential uses of ODSs.

We have tentatively come to the following conclusion:

- The pharmaceutical industry has had success in formulating other orally inhaled corticosteroids without ODSs. In particular, the AEROSPAN flunisolide HFA MDI was approved by FDA. We have no evidence to suggest that the ODS containing triamcionolone or flunisolide oral inhalation drug products pose unique technical challenges to formulation without ODSs. Therefore, we tentatively conclude that no substantial technical barriers exist to formulating triamcinolone or flunisolide oral inhalation drug products without ODSs.
- Flunisolide and triamcinolone MDIs do not provide an otherwise unavailable important public health benefit because of the available therapeutic alternatives.
- The release of ODSs into the atmosphere from flunisolide and triamcinolone MDIs is cumulatively significant and is not warranted because they do not provide an otherwise unavailable important public health benefit.

We, therefore, tentatively conclude that oral pressurized MDIs containing flunisolide and triamcinolone are no longer essential uses of ODSs and should be removed from the list of essential uses in § 2.125(e).

B. Metaproterenol and Pirbuterol

We are proposing to remove the essential-use designations for MDIs containing metaproterenol (ALUPENT MDI) and pirbuterol (MAXAIR). Metaproterenol and pirbuterol are short-acting beta$_2$-adrenergic agonists used in the treatment of bronchospasm associated with asthma and COPD. They act as bronchodilators. Pirbuterol is only available in a CFC MDI, while metaproterenol is also available as a syrup, as tablets, and as an inhalation solution for use in nebulizers. This rulemaking will not affect any dosage form of metaproterenol other than the ALUPENT MDI which contains CFCs. ALUPENT MDI and MAXAIR are the only beta$_2$-adrenergic agonist MDIs currently marketed containing CFCs (other than albuterol, whose essential use status will end December 31, 2008). ALUPENT MDI and MAXAIR are prescription drugs. Their use was considered essential under the 1978 rule, which stated that "[m]etered-dose adrenergic bronchodilator human drugs for oral inhalation" were essential. Metaproterenol and pirbuterol were designated as essential as different active moieties in the 2002 rule. ALUPENT MDI was approved on July 31, 1973, and MAXAIR was approved on November 30, 1992.

We have tentatively concluded that the following beta$_2$-adrenergic agonist MDIs, which use HFA-134a (1,1,1,2, tetrafluoroethane) as a propellant instead of ODSs, collectively provide adequate therapeutic alternatives to ALUPENT MDI and MAXAIR:

- Albuterol sulfate MDI (PROAIR HFA),
- Albuterol sulfate MDI (PROVENTIL HFA),
- Albuterol sulfate MDI (VENTOLIN HFA),
- Levalbuterol tartrate MDI (XOPONEX HFA).

ALUPENT MDI, MAXAIR, and the therapeutic alternatives are all very similar drugs. They are all indicated for the relief of bronchospasms associated with asthma and COPD (although the labeled indications may be worded differently), have very similar safety profiles,[15] and have similar dosing regimens. When we say that these 4 drugs collectively provide adequate therapeutic alternatives, we are not saying that each can be freely substituted for ALUPENT MDI and MAXAIR, or freely substituted one for another. Rather, we are saying that one of those drugs should be an adequate therapeutic alternative for every patient currently using ALUPENT MDI or MAXAIR. ALUPENT MDI and MAXAIR are indicated for children as young as 12, while the therapeutic alternatives are indicated for children as young as 4. The albuterol sulfate products are indicated for prevention of exercise-induced asthma, while ALUPENT MDI, MAXAIR, and Xopenex are not. MAXAIR includes one product form that incorporates an "autohaler" device. This mechanism senses patient effort and delivers the dose in relationship to inhalation by the patient. While this

[14] References to outside publications or any other statements of fact or opinion in this document concerning a drug product are not intended to be equivalent to statements in labeling approved under section 505 of the act (21 U.S.C. 355) and part 314 of our regulations (21 CFR part 314).

[15] Metaproterenol, because it is less selective than pirputerol, albuterol, levalbuterol, and some other beta$_2$-agonists, may present greater potential for excessive cardiac stimulation (Ref. 2, p. 64; Ref. 1, Appendix A–2).

mechanism is believed to lessen issues with coordinating inhalation to actuation, there are no data to adequately document that this feature leads to improvements in therapy. However, the use of spacer devices with other alternative products may provide options for individuals who have difficulties in coordinating inhalation with MDI operation, allowing them to more satisfactorily use MDIs that do not have a breath-actuated mechanism.

PADAC members gave their opinion, without dissent, that metaproterenol and pirbuterol were no longer essential uses of ODSs.

We have tentatively come to the following conclusions:

- The pharmaceutical industry has had success in formulating other orally inhaled beta$_2$-adrenergic bronchodilators without ODSs. We have no evidence to suggest that the ODS containing metaproterenol or pirbuterol oral inhalation drug products pose unique technical challenges to formulation without ODSs Therefore, we tentatively conclude that no substantial technical barriers exist to formulating metaproterenol and pirbuterol oral inhalation drug products without ODSs.
- Metaproterenol and pirbuterol MDIs do not provide an otherwise unavailable important public health benefit because of the available therapeutic alternatives.
- The release of ODSs into the atmosphere from metaproterenol and pirbuterol MDIs is cumulatively significant and is not warranted because they do not provide an otherwise unavailable important public health benefit.

We, therefore, tentatively conclude that oral pressurized MDIs containing metaproterenol and pirbuterol are no longer essential uses of ODSs and should be removed from the list of essential uses in § 2.125(e).

C. Cromolyn and Nedocromil

Cromolyn sodium and nedocromil sodium are members of the class of drugs called "cromones." Although it is not entirely clear how cromones exert their clinical effect, cromones are thought to inhibit antigen-induced bronchospasm as well as the release of histamine and other autacoids from sensitized mast cells. Cromolyn is also available for use in treating asthma as an inhalation solution for use in a nebulizer. Both cromolyn and nedocromil are also used in ophthalmic products, and cromolyn is available for oral administration for an enteric indication. None of these formulations would be affected by this proposed action.

The only cromolyn MDI (INTAL MDI) was approved for marketing on December 5, 1985. The essential-use designation for "[m]etered-dose cromolyn sodium human drugs administered by oral inhalation" was added to § 2.125(e) on February 6, 1986 (51 FR 5190).

The only nedocromil MDI (TILADE) was approved for marketing December 30, 1992. The essential-use designation for "[m]etered-dose nedocromil sodium human drugs administered by oral inhalation" was added to § 2.125(e) on January 26, 1993 (58 FR 6086).

No other cromone drug is marketed in an MDI or other dosage form.

Both INTAL MDI and TILADE are indicated for the management of asthma in patients as young as 5 and 6, respectively. Both are prescription drugs. Neither drug is indicated for the relief of acute bronchospasm.

We have tentatively concluded that the following orally inhaled corticosteroid drug products, which do not contain ODSs, collectively provide adequate therapeutic alternatives to INTAL MDI and TILADE:

- Beclomethasone dipropionate MDI (QVAR),
- Budesonide DPI (PULMICORT TURBUHALER),
- Fluticasone propionate MDI (FLOVENT HFA), and
- Mometasone furoate DPI (ASMANEX TWISTHALER).

Inhaled corticosteroids are generally considered the preferred treatment for mild but persistent asthma, while cromolyn and nedocromil are considered to be alternative, or secondary, treatments (Ref. 1, appendix A–1, and p. 23). Cromolyn and nedocromil are generally regarded as having an excellent safety profile, but their clinical usefulness has been questioned, particularly when compared to inhaled corticosteroids (Ref. 1., p. 23; Ref. 2;). The clinical evidence of better effectiveness outweighs any minor concerns we may have about the slight differences that may exist between the safety profiles of the cromones (cromolyn and nedocromil) and the inhaled corticosteroids. QVAR, and PULMICORT TURBUHALER, as discussed in part V.A of this document, provide more than adequate therapeutic alternatives for younger pediatric patients. While low-dose inhaled corticosteroids are generally considered the drugs of choice for mild but persistent asthma in adults and children, health care providers and patients, particularly in cases of patients who do not tolerate corticosteroids, may decide to switch from INTAL MDI and TILADE to drugs other than inhaled corticosteroids. Also, there are non-inhaled asthma medications, such as leukotriene modifiers and theophylline, which also provide alternative therapies. Leukotriene modifiers and theophylline (as well as cromolyn and nedocromil) have been suggested as alternative medications for moderate but persistent asthma in children older than 5 and in adults (Ref. 1, app. A–1)

Although we believe that patients using INTAL MDIs and TILADE will be adequately served by the inhaled corticosteroids and other therapeutic alternatives described previously, another therapeutic alternative may be the use of cromolyn inhalation solution in a portable nebulizer. We bring up this issue here because of the absence of MDIs and DPIs containing a cromone, and the availability of cromolyn in an inhalation solution. In the past we have downplayed, but never categorically rejected, the suitability of portable nebulizers as therapeutic alternatives to ODS-containing MDIs (see the 1999 Proposed Rule at 47226, and the 2002 Final Rule at 48377). We invite comment on the suitability of portable nebulizers as therapeutic alternatives to INTAL MDIs and TILADE, and whether use of a portable nebulizer would be necessary to serve all patients who are currently using INTAL MDIs and TILADE.

PADAC members were closely divided at the 2005 meeting on whether cromolyn is essential. Several members questioned the drug's effectiveness with some concluding that the drug was no longer essential, while others felt that the drug was preferable for treating some "niche" patient populations, even though inhaled corticosteroids were more generally effective. The two niche patient populations identified were patients who could not tolerate beta$_2$-adrenergic agonists who experience exercised-induced bronchospasm, and patients who need prophylaxis for a specific allergy-induced bronchospasm, such as might happen when an allergic patient visits a house with a cat in it. One member said that for the small group of patients that have no other alternative than to use cromolyn, nebulizers, while somewhat inconvenient, may provide a therapeutic alternative for situations involving planned and known exposures to allergens. Another member disagreed with this opinion, responding that nebulizers are too inconvenient to provide a therapeutic alternative to MDIs.

A consensus quickly developed among the PADAC members at the 2005 meeting that nedocromil was not essential. One member questioned

whether TILADE was still on the market and another stated that he had assumed it was off the market. One member said that his view on nedocromil, which he viewed as very comparable to cromolyn (a view well supported by available literature), was influenced by the supposition that a cromolyn product would still be on the market.

The issue of exercise-induced bronchospasm in determining the essential-use status of cromolyn and nedocromil is a difficult subject to address. Beta$_2$-adrenergic agonists are generally regarded as the treatment of choice for prophylaxis of exercise induced bronchospasm (Ref. 3, p. 100). The labeling for PROVENTIL HFA, VENTOLIN HFA, PROAIR HFA, formoterol fumarate inhalation powder (FORADIL), and SEREVENT DISKUS includes indications for exercise induced bronchospasm. As stated at the 2005 PADAC meeting, the primary issue then becomes one of prophylaxis of exercise induced bronchospasm in patients who do not tolerate beta$_2$-adrenergic agonists. The size of this patient population is not well documented. Studies of albuterol in HFA MDIs show rates of adverse events that are not significantly different from the rates with a placebo, indicating that this is a very well-tolerated drug.[16] If a patient population that cannot tolerate beta$_2$-adrenergic agonists exists, it would seem to be very small. However, there appear to be therapeutic alternatives for INTAL MDIs and TILADE for this population. Long-term control therapy using corticosteroids may provide an appropriate therapeutic alternative for prophylaxis of exercise induced bronchospasm. Long-term control therapy, including corticosteroids and montelukasts (SINGULAIR), may decrease the bronchial hyperresponsiveness and therefore significantly lessen the need for immediate prophylaxis of exercise induced bronchospasm with a shorter-acting drug, such as cromolyn, nedocromil, or albuterol. (Ref. 3, p. 100; Ref. 4; Ref. 5; Ref. 6). Portable nebulizers using cromolyn may provide an attractive therapeutic alternative for this patient population as well. A nebulizer too large to carry in a pocket or purse might be easily carried in a gym bag. Larger nebulizers using cromolyn may also provide an acceptable therapeutic alternative for prophylaxis of exercise induced bronchospasm, because exercise can be scheduled so that access to a nebulizer is available before the exercise.

The issue of INTAL MDI and TILADE patients who needed prophylaxis for a specific allergy-induced bronchospasm, such as might occur when an allergic patient visits a house with a cat in it, is less well defined than the prophylaxis of exercise induced bronchospasm. We believe that our discussion of alternatives to INTAL MDIs and TILADE in regard to exercise induced bronchospasm would be equally relevant to this issue.

We agree with the PADAC member that cromolyn and nedocromil are very comparable drugs (see Ref. 7 (cromolyn and nedocromil administered by MDI provide similar protection against exercise induced bronchospasm in children)). We request comment as to whether there is a medically sound rationale for treating them differently. It would seemingly make little sense to remove the essential use of one and retain the other without such a rationale. There would be no net decrease in the amount of ODSs released into the atmosphere if everyone currently using INTAL MDI switched to TILADE, or vice versa. Therefore, our analysis has treated the two drugs together.

We have tentatively come to the following conclusion:

- The pharmaceutical industry has had success in formulating other orally inhaled drugs with similar physical properties to cromolyn and nedocromil without ODSs, including the development of cromolyn and nedocromil HFA MDIs overseas. We have no evidence to suggest that the ODS containing cromolyn or nedocromil oral inhalation drug products pose unique technical challenges to formulation without ODSs. Therefore, we tentatively conclude that no substantial technical barriers exist to formulating cromolyn and nedocromil oral inhalation drug products without ODSs.
- Cromolyn and nedocromil MDIs do not provide an otherwise unavailable important public health benefit because of the available therapeutic alternatives. However, given the issues raised during the discussion at the PADAC meeting, we request comment on our tentative conclusion.
- The release of ODSs into the atmosphere from cromolyn and nedocromil MDIs is cumulatively significant and is not warranted, because they do not provide an otherwise unavailable important public health benefit.

We, therefore, tentatively conclude that oral pressurized MDIs containing cromolyn sodium and nedocromil sodium are no longer essential uses of ODSs and should be removed from the list of essential uses in § 2.125(e).

D. Albuterol and Ipratropium in Combination

We are proposing to remove the essential-use designations for MDIs containing albuterol sulfate and ipratropium bromide in combination (COMBIVENT).[17] COMBIVENT is a prescription drug. Albuterol is a beta$_2$-adrenergic bronchodilator and ipratropium is an anticholinergic bronchodilator. Both are used in the treatment of bronchospasm associated with COPD. Albuterol is somewhat faster acting than ipratropium, while ipratropium is somewhat longer acting than albuterol. The primary advantage of using the two drugs in combination is that, by using two distinctly different mechanisms of action, the two drugs in combination should produce greater bronchodilator effect than using either drug alone. The essential use for MDIs containing albuterol sulfate and ipratropium bromide in combination was added to § 2.125(e) in the **Federal Register** of April 9, 1996 (61 FR 15700). Albuterol and ipratropium, in combination, are also sold as an inhalation solution (DUONEB) for use in a nebulizer. Nebulizers do not use CFCs. This current rulemaking will not affect the regulatory status of DUONEB.

We have tentatively determined that an ipratropium bromide MDI (ATROVENT HFA) used with an albuterol sulfate HFA MDI (PROAIR HFA, PROVENTIL HFA, OR VENTOLIN HFA) will provide an acceptable therapeutic alternative to COMBIVENT. Using the two MDIs together will deliver the same dose of ipratropium (18 mcg per inhalation) and essentially the same dose of albuterol (108 mcg versus 103 mcg per inhalation). While the acceptability as a therapeutic alternative of the same two drugs delivered by two separate MDIs rather than by one may seem obvious, this opinion is not universally shared. A Boehringer

[16] Other beta$_2$-adrenergic bronchodilators, particularly older, less selective beta$_2$-adrenergic bronchodilators, may not be as well tolerated. Salmeterol has specific safety concerns (see the boxed warning on the approved labeling of Serevent Diskus). However, albuterol is the most widely used beta$_2$-adrenergic bronchodilator, and it is indicated for prophylaxis of exercise induced bronchospasm, so we feel comfortable in focusing our discussion on this single member of the class.

[17] We have received a citizen petition from Boehringer Ingelheim Pharmaceuticals, Inc. (BI) (Docket No. 2006P-0428/CP1). The petition asks us to refrain from taking any action to remove the essential-use designation for COMBIVENT. We have not had adequate time to evaluate this lengthy petition and its 52 references. We will treat the petition as a comment on this proposal. The contents of this petition do not need to be resubmitted, but BI is free to submit any additional information or analysis they feel is relevant.

Ingelheim Pharmaceuticals, Inc. (BI), employee commented at the 2005 PADAC meeting that having patients use albuterol and ipratropium in a single combination MDI resulted in higher patient compliance with the prescribed regimen of medication than having the patient use two separate MDIs. Several PADAC members agreed with BI that higher compliance rates among patients was a significant factor that justified continuing the essential-use status of albuterol and ipratropium in combination. Other PADAC members stated that combining the two drugs was more of a convenience than an essentiality. One member noted that the hospital at which he practiced did not have COMBIVENT on its formulary, and albuterol and ipratropium are prescribed in separate MDIs. He concluded that providing the two drugs together in a combination MDI was not essential. One PADAC member pointed out that the increasing popularity of the tiotropium bromide DPI (SPIRIVA HANDIHALER) would decrease demand for COMBIVENT, because ipratropium cannot be used in conjunction with tiotropium. One PADAC member stated that the combination should remain essential for the time being because of the unnecessary anxiety that removing COMBIVENT from the market could cause. Opinion on whether the combination should retain its essential-use status was evenly divided.

We are aware of one health economics survey suggesting that a single inhaler containing both albuterol and ipratropium might increase compliance and decrease risk of emergency department visits and mean length of hospital stays compared to the effects achieved with separate inhalers for these two moieties (Ref. 8). However, we have not fully evaluated this survey. A patient's failure to use albuterol and ipratropium as prescribed would be expected to lead to increased symptoms, but it would not affect the permanent underlying state of the patient's lungs (Ref. 9). When the patient resumes using albuterol and ipratropium as prescribed (which he or she would have a major incentive to do), the symptoms should be relieved, with no significant changes in the patient's health compared to the period before the patient stopped using the MDIs as prescribed. We welcome any reports of studies on these subjects. We request comment on whether increased compliance and increased quality of life would be compelling reasons for continuing the essential-use designation for albuterol and ipratropium in combination. We do not currently have sufficient information to say that continuing the essential use will significantly increase patient quality of life to support a claim of important public health benefit.

Continuing the essential-use status of albuterol and ipratropium in combination is no longer supported by one of the rationales that BI proposed in their citizen petition requesting that MDIs containing albuterol sulfate and ipratropium bromide in combination be listed as essential in § 2.125(e). BI said that use of the COMBIVENT MDI could reduce the release of CFCs into the atmosphere, because patients would be using one CFC MDI for both albuterol and ipratropium, instead of two separate CFC MDIs (neither albuterol nor ipratropium was available in a non-ODS MDI at the time) (Citizen Petition, dated October 19, 1992, Docket No. 1992P–0403/CP1 (formerly 92P–0403)). We adopted this rationale in our rulemaking to add the essential use to § 2.125(e) (60 FR 53725, October 17, 1995; 61 FR 15699, April 9, 1996). Now, however, with ATROVENT HFA and albuterol sulfate HFA MDIs on the market, this rationale is no longer valid.

We have tentatively come to the following conclusion:

- Although a BI employee said at the 2005 PADAC meeting that there were substantial technical barriers to formulating albuterol and ipratropium in combination without ODSs, we have not been supplied with any information to support this conclusion and we cannot make an initial determination on whether substantial technical barriers exist.
- Albuterol and ipratropium in combination CFC MDIs do not provide an otherwise unavailable important public health benefit. However, given the issues raised during the discussion at the PADAC meeting, we request comment on our tentative conclusion.
- The release of ODSs into the atmosphere from albuterol and ipratropium in combination MDIs is cumulatively significant and is not warranted, because they do not provide an otherwise unavailable important public health benefit.

We, therefore, tentatively conclude that metered-dose ipratropium bromide and albuterol sulfate, in combination, administered by oral inhalation for human use is no longer an essential use of ODSs and should be removed from the list of essential uses in § 2.125(e). We would be able to reach this conclusion without reaching a conclusion about whether substantial technical barriers exist to formulating an ipratropium bromide and albuterol sulfate combination without ODSs because a CFC ODS product must meet all three criteria to remain designated as an essential use (see § 2.125(g)(2)).

VI. Environmental Impact

We have carefully considered the potential environmental effects of this action. We have tentatively concluded that the action will not have a significant adverse impact on the human environment, and that an environmental impact statement is not required. Our initial finding of no significant impact and the evidence supporting that finding, contained in a draft environmental assessment, may be seen in the Division of Dockets Management (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday. We invite comments on the draft environmental assessment. Comments on the draft environmental assessment may be submitted in the same way as comments on this document (see **DATES**).

VII. Analysis of Impacts

A. Introduction

FDA has examined the impacts of the proposed rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is a significant regulatory action as defined by the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The agency does not believe that this proposed rule would have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing "any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year." The current threshold after adjustment for inflation is $118 million, using the most current (2004) Implicit Price Deflator for the Gross

Domestic Product. FDA does not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

The Congressional Review Act requires that regulations that have been identified as being major must be submitted to Congress before taking effect. This rule is major under the Congressional Review Act.

Limitations in the available data prevent us from estimating quantitatively the anticipated costs and benefits to society, so we focus instead on proxy measures. The costs of this proposed rule include the benefits lost by consumers who would have bought MDIs at current prices, but would not buy them at higher prices. Consumers of flunisolide MDIs (AEROBID) and MDIs delivering albuterol and ipratropium in combination (COMBIVENT) will face higher prices because available substitutes cost more. In contrast, users of triamcinilone MDIs (AZMACORT), metaproterenol MDIs (ALUPENT), pirbuterol MDIs (MAXAIR), cromolyn sodium MDIs (INTAL), and nedocromil sodium MDIs (TILADE) will be able to switch to less expensive alternatives. Consumers of these products may benefit as they are made aware of less expensive, therapeutically adequate alternatives to the MDIs they currently use.

Net spending by consumers and third-party payers, including Federal and State Governments, will increase as patients switch to more expensive therapeutic alternatives; the potential for spending reductions by users of AZMACORT, ALUPENT, MAXAIR, INTAL, and TILADE is not enough to offset expected increases in spending by users of AEROBID and COMBIVENT. These spending increases, however, overstate social costs because, to some extent, they represent resources transferred from drug buyers (consumers and third-party payers) to drug sellers (drug manufacturers, wholesalers, pharmacies). We estimate that, when it occurs, the introduction of generic albuterol HFA MDIs to the market will eliminate price and spending increases resulting from this proposed rule. The benefits of this rule include the value of improvements in the environment and public health that may result from reduced emissions of ODSs (for example, the reduced future incidence of skin cancers and cataracts). The benefits also include improved expected returns on investments in environmentally friendly technologies and greater international cooperation and goodwill to comply with the Montreal Protocol.

Estimated spending increases (summarized in tables 1 and 2 of this document) cannot be attributed solely to this rule. These increases result from COMBIVENT users switching to ATROVENT HFA and albuterol HFA MDIs. The increased spending from this switch, in turn, is driven by the switch from inexpensive generic albuterol CFC MDIs to more expensive albuterol HFA MDIs, which was mandated in earlier rulemaking (70 FR 17168). These estimated spending increases may also be attributed to the withdrawal of albuterol CFC MDIs (including all of the less-expensive generic albuterol MDIs) from the market (see 70 FR 17168). The rightmost column in table 1 of this document shows estimates of the amount of increased spending attributable to this proposed rule if COMBIVENT prices were to increase dramatically, as discussed in section VII.C.6 of this document, even in the absence of this proposed rule. These remaining costs would be attributable to this proposed rule until a mandatory phase-out of all CFCs under the Montreal Protocol.

TABLE 1.—SUMMARY OF ANNUAL QUANTIFIABLE EFFECTS OF THE PROPOSED RULE

Patient Days of Therapy Affected	Increased MDI Expenditures, in 2005 dollars	Possible Reduction in Days of Therapy Used (millions)	Reduced CFC Emissions from Phase-out (tonnes)	Increased MDI Expenditures Attributable to this Proposed Rule Without Increase in Expenditures by COMBIVENT Users
440 million	$200–$400 million	0.7–11	310–365	-$70 to $70 million

TABLE 2.—SUMMARY OF INCREASES IN IMPACTS RELATIVE TO HFA PATENT EXPIRATION

Date of HFA Patent Expiration	Possible Decreases in Use of Asthma and COPD Therapy (million days of therapy)	Discount Rate	Increases in Expenditures on CFC-based MDIS, Present Value in 2006 (billions)
2010	.68–11	3%	$.19–$.38
		7%	$.17–$.35
2017	5.4–88	3%	$1.3–$2.7
		7%	$1.1–$2.2

The decreased use of MDIs may adversely affect some patients, but we currently lack data that would allow us to characterize such effects quantitatively. We also are unable to estimate quantitatively the reductions in skin cancers, cataracts, and environmental harm that may result from the reduction in CFC emissions by 310 to 365 tonnes during these years. Although we cannot estimate quantitatively the public health effects of the phase-out, based on a qualitative assessment, the agency concludes that the benefits of this regulation justify its costs.

We state the need for the regulation and its objective in section VII.B of this document. Section VII.C of this document provides background on CFC depletion of stratospheric ozone, the Montreal Protocol, the albuterol MDI market, and the health conditions that albuterol is used to treat. We analyze the benefits and costs of the rule, including effects on government outlays, in section VII.D of this document. We assess alternative dates in section VII.E of this document, and discuss sensitivity analysis in section VII.F of this document. We present an analysis of the effects on small business in a regulatory flexibility analysis in section VII.G of this document. We discuss our conclusions in section VII.H of this document.

B. Need for Regulation and the Objective of this Rule

This proposed regulation responds to U.S. obligations under the Montreal Protocol and the Clean Air Act. The Montreal Protocol itself recognizes that the regulation of ozone-depleting substances is necessary because private markets are very unlikely to preserve levels of stratospheric ozone sufficient to protect the public health. Individual users of CFC MDIs have no significant private incentive to switch to non-ozone-depleting products because, under current regulations, the environmental and health costs of ozone-depleting products are external to end users. Moreover, should MDI users voluntarily internalize these costs by switching to alternative products, they would not receive the benefits of their actions. Each user would bear all of the costs and virtually none of the benefits of such a switch, as the environmental and health benefits would tend to be distributed globally and occur decades in the future. Thus, the outcome of a private market would likely be continued use of CFC MDIs, even if the social value of reducing emissions were clearly much greater than the price premium for non-ozone-depleting therapies and the possible adverse affects on some patients due to the decreased use of MDIs.

The objective of this proposed rule is to respond to the Clean Air Act and the Montreal Protocol's requirements that the United States, and other nations, reduce atmospheric emissions of ODSs, specifically CFCs. CFCs and other ODSs deplete the stratospheric ozone that protects the Earth from ultraviolet solar radiation. We are proposing to end the essential-use designation for ODSs used in MDIs containing triamcinilone, metaproterenol, pibuterol, cromolyn sodium, nedocromil sodium, flunisolide, and albuterol and ipratropium in combination, because we tentatively conclude that adequate therapeutic alternatives are available. Removing this essential-use designation will comply with obligations under the Montreal Protocol and the Clean Air Act, thereby reducing emissions that deplete stratospheric ozone.

C. Background

1. CFCs and Stratospheric Ozone

During the 1970s, scientists became aware of a relationship between the level of stratospheric ozone and industrial use of CFCs. Ozone (O_3), which causes respiratory problems when it occurs in elevated concentrations near the ground, shields the Earth from potentially harmful solar radiation when it is in the stratosphere. Excessive exposure to solar radiation is associated with adverse health effects such as skin cancer and cataracts, as well as adverse environmental effects. Emissions of CFCs and other ODSs reduce stratospheric ozone concentrations through a catalytic reaction, thereby allowing more solar radiation to reach the Earth's surface. Because of this effect and its consequences, environmental scientists from the United States and other countries advocate ending all uses of these chemicals.

2. The Montreal Protocol

The international effort to craft a coordinated response to the global environmental problem of stratospheric ozone depletion culminated in the Montreal Protocol, an international agreement to regulate and reduce production of ODSs. The Montreal Protocol is described in section I.B.2 of this document. One hundred and eighty-eight countries have now ratified the Montreal Protocol, and the overall usage of CFCs has been dramatically reduced. In 1986, global consumption of CFCs totaled about 1.1 million tonnes annually, and by 2004, total annual production had been reduced to 70,000 tonnes (Ref. 10). This decline amounts to more than a 90-percent decrease in production and is a key measure of the success of the Montreal Protocol. Within the United States, use of ODSs, and CFCs in particular, has fallen sharply—production and importation of CFCs is less than 1 percent of 1989 production and importation (Ref. 10).

A relevant aspect of the Montreal Protocol is that production of CFCs in any year by any country is generally banned after the phase-out date unless the Parties to the Montreal Protocol agree to designate the use for which the CFCs are produced as "essential" and approve a quantity of new production for that use.

Each year, each Party nominates the amount of CFCs needed for each essential use and provides the reason why such use is essential. Agreement on both the essentiality and the amount of CFCs needed for each nominated use is reached at the annual Meeting of the Parties.

3. Benefits of the Montreal Protocol

EPA has generated a series of estimates of the environmental and public health benefits of the Montreal Protocol (Ref. 11). The benefits include reductions of hundreds of millions of nonfatal skin cancers, 6 million fewer fatalities due to skin cancer, and 27.5 million cataracts avoided between 1990 and 2165 if the Montreal Protocol were fully implemented. EPA estimates the value of these and related benefits to equal $4.3 trillion in present value when discounted at 2 percent over the period of 175 years. This amount is equivalent to about $6 trillion after adjusting for inflation between 1990 and 2004. This estimate includes all benefits of total global ODS emission reductions expected from the Montreal Protocol and is based on reductions from a baseline scenario in which ODS emissions would continue to grow for decades but for the Montreal Protocol.

4. Characteristics of COPD

The seven CFC MDI products that are the subject of this proposed rule, and COMBIVENT in particular, may be used to treat COPD. While there is some overlap between asthma patients and COPD patients, COPD encompasses a group of diseases characterized by relatively fixed airway obstruction associated with breathing-related symptoms (for example, chronic coughing, expectoration, and wheezing). COPD is generally associated with cigarette smoking and is extremely rare in persons younger than 25.

According to the National Health Interview Survey (NHIS), an estimated 10 million adults in the United Sates carried the diagnosis of COPD in 2000 (table 1 of Ref. 12). The underlying surveys depend on patient-reported diagnoses and many affected individuals have not been formally diagnosed. Data from the National Health and Nutrition Examination Survey (table 3 of Ref. 12), which was not based on patient self-reporting, suggests that as many as 24 million Americans may actually be affected by the illness. The proportion of the U.S. population with mild or moderate COPD has declined over the last quarter century, although the rate of COPD in females increased relative to males between 1980 and 2000. Among smokers, the most effective intervention in modifying the course of COPD is smoking cessation. Symptoms such as coughing, wheezing, and sputum production are treated with medication.

5. Characteristics of Asthma

These seven CFC MDIs, with the exception of COMBIVENT, may be used to treat asthma, a chronic respiratory disease characterized by episodes or attacks of bronchospasm on top of chronic airway inflammation. These attacks can vary from mild to life-threatening and involve shortness of breath, wheezing, coughing, or a combination of symptoms. Many factors, including allergens, exercise,

viral infections, and others, may trigger an asthma attack.

According to the NHIS, approximately 21 million patients in the United States reported they had asthma in 2004 (table 7 of Ref. 13). The prevalence of asthma decreases with age, with the prevalence being 84.7 per 1,000 children ages 0-17 (6.2 million children) compared to 63.9 per 1,000 among adults ages 18-44 (7.1 million), 69.4 per 1,000 among adults ages 45-64 (4.9 million), and 70.2 per 1,000 among adults age 65 and over (2.4 million) (table 7 of Ref. 13).

The NHIS reported that, during 2004, about 12 million patients reported experiencing an asthma attack in the course of the previous year (table 10 of Ref. 13). According to the National Ambulatory Medical Care Survey and National Hospital Ambulatory Medical Care Survey, in 2004 there were 14 million outpatient asthma visits to physician offices and hospital clinics and 1.8 million emergency room visits (table 19 of Ref. 13). According to the National Center for Health Statistics' National Hospital Discharge Survey, there were 497,000 hospital admissions for asthma in 2004 (table 17 of Ref. 13) and 4,099 mortalities in 2003 (table 1 of Ref. 13). The direct medical cost of asthma (hospital services, physician care, and medications) was estimated as $11.5 billion for 2004 (table 20 of Ref. 13).

While the prevalence of asthma has been increasing in recent years, the Centers for Disease Control and Prevention (CDC) reports that the patients reported experiencing an asthma attack in the course of the previous year has remained fairly constant since 1997 (Ref. 14). Non-Hispanic Blacks, children under 17 years old, and females have higher incidence rates than the general population and also have higher attack prevalence. The CDC notes that, although increases have occurred in the numbers and rates of physician office visits, hospital outpatient visits, and emergency room visits, these increases are accounted for by the increase in prevalence. CDC also reported declines in hospitalization for asthma and mortality. The declines may indicate early successes by asthma intervention programs that include access to medications.

6. Current U.S. Market for CFC MDIs

In the 2005 calendar year, we estimate that sales of these seven CFC MDIs provided roughly 440 million days of therapy, sufficient to treat roughly 1.2 million COPD and asthma patients for a full year. We focus on days of therapy as a common metric because these MDIs vary in the number of inhalations provided, and the number of inhalations that the average user would use each day. We calculate the number of days of therapy provided by each MDI as equal to the number of MDIs sold multiplied by the number of inhalations contained by the MDI, divided by the recommended, or usual, daily inhalations described in the MDI's physician labeling: [(Days of Therapy) = (MDIs) x (Inhalations/MDI) ÷ (Inhalations/day)]. We calculate MDI sales for each of the seven products using data from IMS Health's National Sales Perspective (Ref. 15).

We calculate the average price per day of therapy for a CFC MDI as the total revenue derived from sales of that product in 2005, as reported by IMS Health's National Sales Perspective, divided by the number of days of therapy for that product: [(Price/Day of Therapy) = (Total Sales) ÷ (Total Days of Therapy)]. We use the same method to calculate the average price per day of therapy for the nine non-ozone-depleting products we consider the most medically appropriate alternatives to these seven CFC MDIs. We then estimate the price premium (or savings) associated with alternatives as the difference between price per day of the CFC product and the price per day of its most appropriate alternatives.

TABLE 3.—SUMMARY OF CFC MDIS, NON-ODS ALTERNATIVES, AND EXPECTED PRICE CHANGES PER DAY OF THERAPY (REF. 15)

CFC MDI	Non-ODS Alternatives	Price Premium per Day of Therapy	
		Maximum	Minimum
AEROBID AEROBID–M	QVAR PULMICORT TURBOHALER FLOVENT HFA ASMANEX TWISTHALER	$1.63	$0.27
AZMACORT	QVAR PULMICORT TURBOHALER FLOVENT HFA ASMANEX TWISTHALER	$0.35	-$1.01
ALUPENT	PROAIR HFA PROVENTIL HFA VENTOLIN HFA XOPENEX HFA	$0.07	-$0.14
MAXAIR	PROAIR HFA PROVENTIL HFA VENTOLIN HFA XOPENEX HFA	-$0.23	-$0.53
INTAL	QVAR PULMICORT TURBOHALER FLOVENT HFA ASMANEX TWISTHALER	-$0.33	-$1.69

TABLE 3.—SUMMARY OF CFC MDIS, NON-ODS ALTERNATIVES, AND EXPECTED PRICE CHANGES PER DAY OF THERAPY (REF. 15)—Continued

CFC MDI	Non-ODS Alternatives	Price Premium per Day of Therapy	
		Maximum	Minimum
TILADE	QVAR PULMICORT TURBOHALER FLOVENT HFA ASMANEX TWISTHALER	-$2.34	-$5.12
COMBIVENT	ATROVENT HFA + one of the following: PROAIR HFA PROVENTIL HFA VENTOLIN HFA XOPENEX HFA	$1.22	$0.92

Source: IMS Health, IMS National Sales Perspective (TM), 2005, extracted March 2006.

Table 3 of this document shows each of the CFC MDIs that would no longer be marketed, the therapeutic alternatives that users of these CFC MDIs would be expected to purchase, and the range of differences in price per day of therapy. For example, an AZMACORT user would be expected to switch to QVAR, PULMICORT TURBOHALER, FLOVENT HFA, or ASMANEX TWISTHALER. The most expensive of these alternatives would cost roughly 35 cents more per day of therapy, and the least would cost roughly $1 less per day of therapy. COMBIVENT users would be expected to switch to both ATROVENT HFA and one of four albuterol HFA MDIs currently marketed. We make no attempt to forecast future price changes, but note that, during the past year, changes in prices of CFC MDIs did not differ systematically from the changes in prices of the proposed alternatives.

We estimate that, on average, users of these seven CFC MDIs will pay 20 percent to 50 percent more per day of therapy. If all users switched to the least expensive alternative therapy, the average price for users of these seven CFC MDIs, weighted by the number of days of therapy sold for each product in 2005, would increase roughly 20 percent; if all users switch to the most expensive alternative therapy, the average price per day of therapy would increase roughly 50 percent. These prices represent average ex-manufacturer prices across all distribution channels, and do not incorporate retail markups or off-invoice discounts (Ref. 15).

These estimated price increases may also be attributed to the withdrawal of albuterol CFC MDIs (including all generic albuterol MDIs) from the market (see 70 FR 17168). These estimated price increases are driven almost entirely by the large population of COMBIVENT users switching to both the ipratropium MDI (ATROVENT HFA) and albuterol HFA MDIs which, together, are more expensive. Through 2003, the price for a day of therapy with COMBIVENT was roughly equal to the sum of a day of therapy with ATROVENT (the ipratropium CFC MDI which has been withdrawn from the market) and a day of therapy with a generic albuterol CFC MDI. Since 2003, the price of a day of COMBIVENT therapy has risen to be roughly equal to the sum of a day of therapy with ATROVENT HFA and a day of therapy with a generic albuterol CFC MDI, likely in anticipation of the withdrawal of ATROVENT from the market. One might predict that, with the withdrawal of albuterol CFC MDIs (including all generic albuterol MDIs) from the market (see 70 FR 17168), the price of a day COMBIVENT therapy would increase to the sum of a day of therapy with ATROVENT HFA and an albuterol HFA MDI. To the extent that this prediction is accurate, the price increases described previously, and the estimated spending increases derived from it, result not from this proposed rule, but from the earlier rule removing albuterol CFC MDIs from the market. Indeed, without the estimated increase in spending estimated for the price per day of COMBIVENT therapy, the expected average price per day of therapy would not increase; the midpoint of the range of spending changes shown in table 1 of this document, -$70 million to $70 million, is zero.

We estimate that these seven CFC MDIs are responsible for roughly 310 to 365 tonnes of CFC emissions annually. The CFC content of the seven CFC MDIs ranges from about 6 to 20.5 grams per MDI. Multiplying the total 2005 sales of each of the CFC MDIs by its CFC content, and allowing for an additional 10 percent loss in the production process, yields a total of 310 tonnes of CFC emissions annually, our low estimate. The CFC MDI manufacturers have requested roughly 365 tonnes of CFCs for production of the seven CFC MDIs in 2007, our high estimate.[18]

D. Benefits and Costs of the Proposed Rule

We estimate the benefits and costs of a government action relative to a baseline scenario that in this case is a description of the production, use, and access to these seven CFC MDIs in the absence of this rule. In this section, we first describe such a baseline and then present our analysis of the benefits of the proposed rule. We also present an analysis of the most plausible regulatory alternative, given the Montreal Protocol. Next we turn to the costs of the rule and to an analysis of the effects on the Medicare and Medicaid programs.

1. Baseline Conditions

We developed baseline estimates of future conditions to assess the economic effects of prohibiting marketing of these seven CFC MDIs after December 31, 2009. It is standard practice to use, as a baseline, the state of the world without the rule in question, or where this implements a legislative requirement, the world without the statute. For this proposed rule, the Montreal Protocol makes the baseline assumption of indefinite availability infeasible, but we can nevertheless use it as a point of reference. In addition to the baseline of indefinite availability, we also assess alternative phase-out dates for the final disappearance of CFC products.

[18] CFC MDI manufacturers disclose the CFC content of their MDIs to EPA as part of the process of requesting essential-use allocations; however, the CFC content of any particular MDI is considered a trade secret and may not be disclosed without the manufacturer's consent.

Throughout this analysis, we assume that sufficient inventories of CFCs are available to meet demand for these seven CFC MDIs through December 31, 2009, and that there will be sufficient therapeutic alternatives to meet demand after December 31, 2009.

However, in the absence of this proposed rule, the parties to the Montreal Protocol are likely to consider restrictions on access to the CFCs needed to produce these seven CFC MDI products. These likely restrictions imply the costs detailed in section 3 of this document may very well accrue regardless of whether this proposed rule is made final. The cost-benefit analysis presented here would then reflect the withdrawal of the CFC-containing products from the market, rather than the specific effects of this rulemaking.

2. Benefits of the Proposed Rule

The benefits of the proposed rule include environmental and public health improvements from protecting stratospheric ozone by reducing CFC emissions. Benefits also include expectations of increased returns on investments in environmentally friendly technology, and continued international cooperation and goodwill to comply with the spirit of the Montreal Protocol, thereby potentially reducing future emissions of ODSs throughout the world.

Failure to promulgate the requirements proposed in this proposed rule would likely lead the parties to the Montreal Protocol to consider restricting access to the CFCs required to manufacture these seven CFC MDI products, leading to a risk of unexpected disruptions of supplies of drug products which are still being used by patients with asthma and COPD. These disruptions could potentially harm the public health of the United States by preventing a smooth transition from CFC MDIs to non-CFC products.

a. *Reduced CFC emissions*. Market withdrawal of these seven CFC MDIs will reduce emissions by approximately 310 to 365 tonnes of CFCs per year. Current CFC inventories are substantial. Nominations for new CFC production are generally approved by the Parties to the Montreal Protocol 2 years in advance. The proposed rule would ban marketing of these seven CFC MDIs after December 31, 2009. There is some uncertainty with respect to the amount of inventory that will be available in the future, but we anticipate that existing inventory will allow EPA, in consultation with FDA, to avoid allocating any CFCs for 2009. Therefore, we estimate the proposed regulation will reduce CFC use by 310 to 365 tonnes per year after the end of 2009, a benefit that will continue beyond the evaluation period.

In an evaluation of its program to administer the Clean Air Act, EPA has estimated that the benefits of controlling ODSs under the Montreal Protocol are the equivalent of $6 trillion in 2004 dollars. However, EPA's report provides no information on the total quantities of reduced emissions or the incremental value per tonne of reduced emissions. EPA derived its benefits estimates from a baseline that included continued increases in emissions in the absence of the Montreal Protocol. We have searched for authoritative scientific research that quantifies the marginal economic benefit of incremental emission reductions under the Montreal Protocol, but have found none conducted during the last 10 years. As a result, we are unable to quantify the environmental and human health benefits of reduced emissions from this regulation. Such benefits, in any event, were included in EPA's earlier estimate of benefits.

As a share of total global emissions, the reduction associated with the elimination of the seven CFC MDIs represents only a fraction of 1 percent. Current allocations of CFCs for the seven MDIs account for less than 0.1 percent of the total 1986 global production of CFCs (Ref. 10). Furthermore, current U.S. CFC emissions from MDIs represent a much smaller, but unknown, share of the total emissions reduction associated with EPA's estimate of $6 trillion in benefits because that estimate reflects future emissions growth that has not occurred.

Although the direct benefits of this regulation are small relative to the overall benefits of the Montreal Protocol, the reduced exposure to UV–B radiation that will result from these reduced emissions will help protect public health. The proposed rule will account for some small part of the benefits estimated by EPA. However, we are unable to assess or quantify specific reductions in future skin cancers and cataracts associated with these reduced emissions.

b. *Returns on investment in environmentally-friendly technology*. Establishing a phase-out date prior to the expiration of patents on HFA MDI technology not only rewards the developers of the HFA technology, but also serves as a signal to other potential developers of ozone-safe technologies. In particular, such a phase-out date would preserve expectations that the government protects incentives to research and develop ozone-safe technologies.

Newly developed technologies to avoid ODS emissions have resulted in more environmentally "friendly" air conditioners, refrigerants, solvents, and propellants, but only after significant private-sector investments. Several manufacturers have claimed development costs that total between $250 million and $400 million to develop HFA MDIs and new propellant-free devices for the global market (Ref. 16).

These investments have resulted in several innovative products in addition to HFA MDIs. For example, breath-activated delivery systems, dose counters, DPIs, and mini-nebulizers have also been successfully marketed.

c. *International cooperation*. The advantages of selecting a date that maintains international cooperation are substantial because the Montreal Protocol, like most international environmental treaties, relies primarily on a system of national self-enforcement, although it also includes a mechanism to address noncompliance. In addition, compliance with its directives is subject to differences in national implementation procedures. Economically less-developed nations, which have slower phase-out schedules than developed nations, have emphasized that progress in eliminating ODSs in developing nations is affected by observed progress by developed nations, such as the United States. If we propose to adopt a later phase-out date, other Parties could attempt to delay their own control measures.

3. Costs of the Proposed Rule

The proposed rule would increase spending for needed medicines used to treat asthma and COPD. The social costs of the proposed rule include the benefits lost through decreased use of medicines that may result from increased prices. We discuss the increased spending and then the social costs in turn. We are unable to quantify the economic costs of reducing the variety of marketed products from which consumers, and their doctors, can choose, but we note that these costs may be substantial. Because we lack data that would enable us to measure the effects of a decreased number of products from which to choose, in this analysis we only quantify the effects on spending.

In the absence of this regulation, we would expect 440 million days of therapy of these seven CFC MDIs to be sold annually. With this regulation, patients who would have used any of these seven CFC MDIs are expected to switch to one of several other products as described in table 3 of this document. Depending on whether asthma and

COPD patients use the most or least expensive of alternatives, once this proposed rule becomes final and goes into effect, private, third-party and public expenditures on inhaled medicines would increase by roughly $200 million to $400 million per year. These expenditure increases will be driven almost exclusively by COMBIVENT users changing to both ATROVENT HFA and one of four available albuterol HFA products. With most—perhaps all—of this increase coming from estimated increased spending on albuterol HFA MDIs, what happens to the prices of albuterol MDIs will largely determine the change in overall spending. As discussed in section VII.C.6, it is possible that, in response to earlier rulemaking removing generic CFC albuterol MDIs from the market, COMBIVENT prices would increase dramatically even in the absence of this proposed rule. If, even in the absence of this proposed rule, the cost of a day of COMBIVENT therapy were to increase to the sum of a day of albuterol HFA MDI and ATROVENT HFA therapy, this proposed rule would change private, third-party and public expenditures on inhaled medicines by roughly -$70 million to $70 million per year. This increased expenditure would continue until lower-priced non-ODS substitutes appear on the market. For many of these products it is difficult to predict when this might occur. With the exception of albuterol CFC MDIs, generic versions of prescription MDIs and DPIs for treatment of asthma and COPD have not been introduced, despite the expiration of the patents on many of the innovator products. However, the market for albuterol MDIs has a clear history of generic competition. A prior rulemaking (70 FR 17168) will remove albuterol CFC MDIs, including generic albuterol CFC MDIs, from the market by December 31, 2008. If these cheaper generic albuterol MDIs were somehow to remain on the market, the expected cost of switching from COMBIVENT to both ATROVENT HFA and an albuterol HFA MDI would be essentially eliminated. Because expenditure increases resulting from this proposed rule stem almost exclusively from the transition away from COMBIVENT, such increases would most likely be eliminated with the introduction of generic albuterol HFA MDIs to the market. Patents listed in *Approved Drug Products with Therapeutic Equivalence Evaluations* (Orange Book) for albuterol HFA MDIs expire in 2010 and 2017, making those possible dates for generic entry. Of course, unforeseen introduction of alternative therapies could reduce these expected increases in expenditures.

These increased expenditures represent, to some extent, transfers from consumers and third-party payers, including State and Federal Governments, to pharmaceutical manufacturers, patent holders, and other residual claimants. However, to some extent, increased expenditures represent purchases of products that are more costly to manufacture and bring to market. We are unable to estimate the fraction of the increased expenditures that constitute societal costs.

We expect that price increases resulting from market withdrawal of less expensive CFC MDIs could reduce use of inhaled therapy by 0.7 to 11 million days annually, equivalent to roughly 2 to 30 thousand patient years of therapy. The impact of this reduction on health outcomes is too uncertain to quantify given available data, and we invite comments on this issue. We also invite comments on changes in copayments (resulting in higher out-of-pocket costs for insured consumers) and potential effect on therapy days.

A recent article found that "copayment increases led to increased use of emergency department visits and hospital days for the sentinel conditions of diabetes, asthma, and gastric acid disorder: predicted annual emergency department visits increased by 17 percent and hospital days by 10 percent when copayments doubled." (Ref. 17). However, the article proceeds to characterize these results as "not definitive." This finding suggests that increased prices for medicines may lead to some adverse public health effects among the users of these seven CFC MDIs. This evidence is insufficient to permit us to quantify any adverse public health effects. We use expected reductions in days of therapy purchased as a surrogate measure of the impact.

Our approach to estimating the effects of this proposed rule assumes that the primary effect of an elimination of these seven CFC MDIs from the market would be an increase in the average price of MDI and DPI therapy. Given the price increase expected, we have projected how the quantity of MDI and DPI therapy consumed may decline as a result of this rule. We assume that the reduction in the use of MDI and DPI therapy attributable to this rule can be calculated as the product of the sensitivity of use with respect to the price increase, the baseline use of these seven CFC MDIs among price-sensitive patients, and the price increase in percentage terms. We discuss these in turn.

We have no information about how consumers react to increases in the price of these seven forms of CFC MDIs in particular, much less to what amounts to a compulsory switch to different, more expensive drugs. Economists have, however, researched the response of consumers to higher insurance copayments for drugs in general. Goldman et al. estimate price elasticities in the range of -0.33 (for all antiasthmatic drugs) to -0.22 (for antiasthmatic drugs among patients with chronic asthma), implying that a 10 percent increase in insurance copayments apparently leads to a reduction in use of between 2.2 and 3.3 percent (Ref. 17), but the authors report that there is wide variance based on the availability of over-the-counter substitutes. For example, for drugs with no over-the-counter substitutes—a set that includes all seven of these CFC MDIs—the reported price elasticity was -0.15 (Ref. 17, p. 2348). Drugs included as antiasthmatics in this study include anticholinergics, anti-inflammatory asthma agents, leukotriene modulators, oral steroids, steroid inhalers, sympathomimetics, and xanthines. We have used price elasticities of between -0.15 and -0.33 to estimate the potential effect of price increases on demand.

To derive an estimate of the quantity of medicines not sold as a result of this rule, we need an estimate of the baseline use of these seven CFC MDIs by price-sensitive consumers. Based on IMS data, we estimate that asthma and COPD patients receive roughly 440 million days of therapy each year in the form of these seven CFC MDIs (Ref. 15). If users of these products are uninsured in proportion to the share of uninsured in the overall U.S. population (15.7 percent) (Ref. 18), then uninsured asthma and COPD patients receive roughly 69 million days of therapy [(440 million) x (15.7 percent)] in the form of these seven CFC MDIs, equivalent to roughly 188 thousand patient years. However, increases in the price of therapy will fall disproportionately on COMBIVENT users with COPD. In 1995, more than two-thirds of COPD patients were over the age of 65 (Ref. 19); these individuals would therefore be covered, at least in part, by Medicare. If the remaining, under-65 third of the COPD patients are uninsured in proportion to the uninsured share of the population, then only 23 million days of therapy [(440 million) x (15.7 percent) ÷ 3] are used by uninsured COPD patients each year. We are unable to estimate the extent to which Medicare's Part D benefit will cover the increased costs to those patients over age 65. Because most

of those over age 65 have insurance, 15.7% likely understates the true percentage of individuals under 65 without insurance. To the extent this is true, these estimates will understate the true impact of this proposed rule. Finally we estimate that users of these seven CFC MDIs face an average price increases of between 20 and 50 percent per day of therapy, depending on whether asthma and COPD patients switch to the most or least expensive of the proposed alternatives detailed in table 3 of this document. We calculate the low and high estimates as the average percentage price change of the least and most expensive alternatives to each of the seven CFC MDIs, weighted by the number of days of therapy of CFC MDIs sold in 2005. Excluding COMBIVENT, users of the other six CFC MDIs would face prices somewhere between 30 percent higher and 30 percent lower.

We combine different measures of price elasticities (-0.15 to -0.33), the size of the uninsured CFC MDI market (23 to 69 million days of therapy), and estimated price increases (20 percent to 50 percent) to estimate the impact of price increases on use. For example, assuming a price elasticity of -0.15 and 23 million days of therapy sold to the uninsured annually, a 20 percent price increase would reduce demand for inhaled therapy by the uninsured by roughly 700,000 days of therapy annually. By contrast, assuming a price elasticity of -0.33 and 69 million days of therapy sold to the uninsured annually, a 50 percent price increase would reduce uninsured demand by roughly 11 million days of therapy [(69 million days) x (-0.33 elasticity) x (50 percent price increase) = 11 million days of therapy]. We recognize that, because of varying measures of the size of the CFC MDI market for the uninsured, uncertainty about the magnitude of price increases, and consumer response, the true impact of the rule could fall outside this range.

When we exclude COMBIVENT from the calculation, we get a much smaller effect. The expected price change of 30 percent higher to 30 percent lower implies a -4.5 percent to 4.5 percent change in days of therapy if the price elasticity is -0.15 and a -10 percent to 10 percent change in days of therapy if the price elasticity is -0.33. The expected change in days of therapy would be zero, the midpoint of the range.

4. Effects on Medicaid and Medicare

Based on 2005 Medicaid utilization data, we estimate this proposed rule would reduce Federal Medicaid spending by $40 million to $60 million annually. Based on Medicare Current Beneficiary Survey estimates of the Medicare population and estimates of the price difference between CFC MDIs and HFA MDIs, we estimate Federal spending on Medicare beneficiaries, as well as by Medicare beneficiaries themselves, will increase from $190 million to $450 million annually. We recognize these estimates of increased Medicare spending suggest a broader range of potential spending increases than estimates of the overall impact of the proposed rule introduced in table 1 of this document. We discuss data limitations that cause this in section VII.D.3.b of this document.

a. *Medicaid*. Based on aggregated state Medicaid utilization data for 2005,[19] we estimate this proposed rule will reduce Medicaid reimbursements by roughly $40 million annually, because Medicaid reimbursement rates for CFC MDI products are, on average, higher than reimbursement rates for the proposed HFA MDI alternatives. First, we estimate total days of therapy reimbursed by Medicaid in 2005 for each of the seven CFC MDIs and calculate the average reimbursement per day of therapy. Second, we estimate the average reimbursement per day of therapy for each alternative therapy. If all Medicaid beneficiaries using CFC MDIs switch to the most expensive of available alternatives and reimbursement rates remain unchanged, total reimbursements would decrease by approximately $40 million; if they all switch to the least expensive of available alternatives, total reimbursements would decrease by roughly $60 million. Because these estimates are based on 2005 data, they do not take into account decreases in Medicaid reimbursements that will occur as those individuals eligible for both Medicaid and Medicare, and who were covered by Medicaid in 2005, receive their 2006 coverage through Medicare.

TABLE 4.—ESTIMATED IMPACT ON MEDICAID REIMBURSEMENTS BASED ON 2005 DATA

CFC MDIs	Total Days of Therapy	Total Expenditure	Reimbursement per Day of Therapy	Expenditure Premium		Expenditure Change	
				Maximum	Minimum	Maximum	Minimum
MAXAIR	7,248,876	$12,320,046	$1.70	-$0.36	-$0.36	-$2,581,185	-$2,581,185
AEROBID	1,513,499	$4,506,603	$2.98	$1.77	-$1.42	$2,679,966	-$2,149,445
AZMACORT	6,519,580	$19,408,252	$2.98	$1.77	-$1.42	$11,548,769	-$9,254,506
COMBIVENT	47,888,737	$138,485,222	$2.89	-$1.15	-$0.93	-$54,987,774	-$44,318,563
INTAL	550,246	$1,801,310	$3.27	$1.47	-$1.72	$811,434	-$944,343
TILADE	27,497	$151,039	$5.49	-$0.74	-$3.94	-$20,474	-$108,214
ALUPENT	0	$0	$0	$0	$0	$0	$0
Total						-$42,549,264	-$59,356,256

b. *Medicare*. Based on 2003 data from the Medicare Current Beneficiary Survey and price estimates introduced in table 3 of this document, we estimate Federal Medicare spending, together with private expenditure by Medicare beneficiaries, will increase roughly $190 million to $450 million. We estimate roughly 1.2 million beneficiaries used

[19] Our estimate uses State drug utilization data for outpatient drugs paid for by State Medicaid agencies as part of the Medicaid Drug Rebate Program. The data is available at: *http://www.cms.hhs.gov/MedicaidDrugRebateProgram/SDUD/list.asp#TopOfPage*.

these seven CFC MDIs in 2003. Excluding COMBIVENT, we estimate that this spending could increase by as much as $75 million or decrease by as much as $90 million.

TABLE 5.—INCREASED SPENDING ON MEDICARE BENEFICIARIES

	Number of Full-year Medicare users	Price Premium		Cost Per day		Cost Per Year	
		Max	Min	Max	Min	Max	Min
Aerobid	112,259	$1.63	$0.27	$183,219.05	$30,151.89	$66,874,952.64	$11,005,440.65
Azmacort	185,035	$0.35	-$1.01	$65,250.68	-$187,047.39	$23,816,497.79	-$68,272,296.85
Alupent	10,415	$0.07	-$0.14	$752.26	-$1,505.96	$274,574.93	-$549,676.92
Maxair	26,909	-$0.23	-$0.53	-$6,109.49	-$14,387.81	-$2,229,962.64	-$5,251,551.32
Intal	9,950	-$0.33	-$1.69	-$3,273.69	-$16,840.06	-$1,194,895.82	-$6,146,620.75
Tilade	15,108	-$2.34	-$3.70	-$35,296.79	-$55,896.24	-$12,883,326.74	-$20,402,126.86
Combivent	833,103	$1.22	$0.92	$1,019,601.26	$763,304.20	$372,154,460.78	$278,606,034.58
Total	1,192,779					$446,812,300.95	$188,989,202.52

The 1.2 million figure for the number of Medicare users presented previously includes people enrolled as of January 2002 who lived in a community setting during 2003 and who filled a prescription for at least one of these MDIs in 2003. It excludes an additional 102,000 users of these MDIs who were enrolled as of January 2002, lived in a facility for some or all of 2003, and filled at least one prescription. This 1.2 million figure also counts each individual who used more than one of these MDI products one time for each kind of MDI used. An individual using more than one of these products will therefore be counted as a full year user of each product. These estimates exclude individuals who enrolled after January 2002.

Based on the price per day of therapy of each of these products and of their alternatives, we estimate annual Federal spending on Medicare beneficiaries and private spending by Medicare beneficiaries will increase by $190 million to $450 million, depending on whether beneficiaries switch to the least, or most, expensive of available alternatives. This calculation assumes that full-year beneficiaries that use each of these products use a full 365 days of therapy per year, and therefore likely overestimates spending increases, particularly in the case where an individual switched from one to another MDI in the course of a year. These estimates also combine estimates of the Medicare population with price estimates (introduced in table 3 of this document) based on the entire market. Actual prices paid by Medicare beneficiaries are likely to differ systematically from the market as a whole, though it is not clear that the relevant price premiums do.

We are unable to estimate the extent to which these price increases will be paid by Medicare beneficiaries themselves or by the Federal Government. Whether individuals or the Federal Government will pay depends on beneficiaries' aggregate drug spending in a given year and the plan they choose. Data from the Medicare Part D benefit, which would give us better estimates of prices paid and the public and private shares of the burden, are not yet available.

E. Alternative Phase-out Dates

We consider the impacts of the alternative phase-out date of December 31, 2010, in table 6 of this document. A phase-out date set too far in the future would be incompatible with the timetable set by the Montreal Protocol. An earlier phase-out date would be impractical due to the time necessary to complete the regulatory process and to the risk of MDI shortages if the market has insufficient time to switch from CFC to HFA MDIs. This leaves a narrow window for consideration.

TABLE 6.—SUMMARY OF IMPACTS OF A DECEMBER 31, 2010 PHASE-OUT RELATIVE TO HFA PATENT EXPIRATION

Date of HFA Patent Expiration	Possible Decreases in Use of Asthma and COPD Therapy (million days of therapy)	Discount Rate	Increases in Expenditures on CFC-based MDIS, Present Value in 2006 (billions)
2010	0	3%	$0
		7%	$0
2017	4.9–77	3%	$1.2–$2.4
		7%	$0.9–$1.8

Table 6 of this document shows the effect of different expiration dates for HFA MDI patents on the impact of the proposed rule. Listed HFA MDI patents expire in 2010 and 2017. We assume albuterol HFA MDIs are not inherently more costly to produce than albuterol CFC MDIs. Once the relevant patents have expired, generic competition should drive the price of albuterol HFA MDIs down to the current level of generic albuterol CFC MDIs. If generic albuterol HFA MDIs become available in 2010, we estimate COMBIVENT users would not pay more to switch to both

albuterol HFA MDIs and ATROVENT HFA, due to lower prices of generic albuterol HFA MDIs. Therefore, current CFC MDI users would not, on average, pay more for MDIs as a result of this proposed rule. If current CFC MDI users would not pay more on average, they would not reduce their use of these products solely in response to higher prices.

If, however, relevant HFA MDI patents do not expire until 2017, this proposed rule will cause current CFC MDI users to pay more for their MDIs until then, and to reduce their use of these MDIs in response to higher prices.

F. Sensitivity Analyses

The estimated impacts of this proposed rule summarized in table 1 of this document incorporate a range of estimates about the price increases consumers and other payers will face, the size of the affected market and how consumers will respond to price increases. This range represents the full uncertainty range for the estimated effects of this proposed rule. The full range incorporates the ranges of estimates for the individual uncertain variables in the analysis.

In each section of the document, we show the ranges associated with each major uncertain variable. To estimate reduced use of inhaled medications, we estimate 23 million to 69 million days of therapy are used by uninsured individuals annually. We estimate that these consumers will face price increases in switching from CFC to HFA MDIs from 20 to 50 percent per day of therapy, depending on whether they switch to the most expensive or least expensive of the available alternatives. We use price elasticities ranging from -0.15 to -0.33 to estimate how consumers will reduce their MDI use in response to price increases.

Similarly, estimates of the impact of the proposed rule on public and private spending depend on the overall size of the CFC MDI market and how much prices increase. We estimate the consumers purchase roughly 440 million days of therapy in the form of CFC MDIs annually, and that prices will increase 20 to 50 percent depending on whether they switch to the most expensive or least expensive of available alternatives. If we exclude COMBIVENT from the calculation, the expected price effects range from a 30 percent increase to a 30 percent decrease, depending on whether they switch to the most expensive or least expensive of available alternatives.

G. Conclusion

Limits in available data prevent us from quantifying the costs and benefits of the proposed rule and weighing them in comparable terms. The benefits of international cooperation to reduce ozone emissions are potentially enormous but difficult to attribute to any of the small steps, such as this proposed rule, that make such cooperation effective. As discussed previously in detail, the benefits of the proposed rule include environmental and public health improvements from protecting stratospheric ozone by reducing CFC emissions. Benefits also include expectations of increased returns on investments in environmentally friendly technology, reduced risk of unexpected disruption of supply of CFC MDIs, and continued international cooperation to comply with the spirit of the Montreal Protocol, thereby potentially reducing future emissions of ODSs throughout the world.

This proposed rule could potentially cost public and private consumers of CFC MDIs hundreds of millions of dollars annually, but it is difficult to link these costs to adverse public health outcomes.

VIII. Regulatory Flexibility Analysis

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. FDA requests comment on this issue. This rule may have a significant impact on firms that manufacture the seven CFC MDIs, including firms that distribute CFC MDIs that are manufactured under contract for them. According to the U.S. Small Business Administration, "pharmaceutical preparation manufacturers" (North American Industrial Classification System (NAICS) code 325412) are considered small entities if they employ fewer than 750 people, and "drug and druggists' sundries merchant wholesalers" (NAICS code 424210) are small entities if they employ fewer than 100 people. None of the firms that manufacture the seven CFC MDIs, including firms that distribute CFC MDIs that are manufactured under contract for them, employ fewer than 750 people and therefore none are small entities.

We do not expect that premiums paid by small businesses or other small entities for employees' prescription drug benefit plans will increase significantly as a result of this rulemaking. Accordingly, the agency does not believe that this proposed rule would have a significant economic impact on a substantial number of small entities.

IX. The Paperwork Reduction Act of 1995

This proposed rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

X. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. While this rule may result in States increasing spending for albuterol MDIs in programs such as Medicaid, the increased spending is not a substantial direct compliance cost, as the term is used in Executive Order 13132. Accordingly, we have concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

XI. Request for Comments

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

An upcoming public meeting on the essential-use status of MDIs containing flunisolide, triamcinolone, metaproterenol, pirbuterol, albuterol and ipratropium in combination, cromolyn, and nedocromil will provide an additional opportunity for public comment. We will provide details on the meeting in a notice published in the **Federal Register** in the near future.

XII. References

The following references have been placed on display in the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. FDA has verified the

Web site addresses, but we are not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.

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9. Anthonisen, N. R. et al., "Hospitalizations and Mortality in the Lung Health Study" *American Journal of Respiratory and Critical Care Medicine*, 166:333–339, 2002.

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11. U.S. Environmental Protection Agency, "The Benefits and Costs of the Clean Air Act: 1990–2010" (*http://www.epa.gov/air/sect812/copy99.html*) (November 1999).

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13. American Lung Association, "Trends in Asthma Morbidity and Mortality," Epidemiology & Statistics Unit, Research and Program Services, July 2006.

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16. Rozek, R. P., and E. R. Bishko, "Economics Issues Raised in the FDA's Proposed Rule on Removing the Essential-Use Designation for Albuterol MDIs," National Economic Research Associates, August 13, 2004 (FDA Docket No. 2003P–0029/C25).

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List of Subjects in 21 CFR Part 2

Administrative practice and procedure, Cosmetics, Drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Clean Air Act and under authority delegated to the Commissioner of Food and Drugs, after consultation with the Administrator of the Environmental Protection Agency, it is proposed that 21 CFR part 2 be amended as follows:

PART 2—GENERAL ADMINISTRATIVE RULINGS AND DECISIONS

1. The authority citation for 21 CFR part 2 continues to read as follows:

Authority: 15 U.S.C. 402, 409; 21 U.S.C. 321, 331, 335, 342, 343, 346a, 348, 351, 352, 355, 360b, 361, 362, 371, 372, 374; 42 U.S.C. 7671 *et seq.*

§ 2.125 [Amended]

2. Section 2.125 is amended by removing and reserving paragraphs (e)(1)(iii), (e)(1)(v), (e)(2)(iii), (e)(2)(iv), (e)(4)(iv), (e)(4)(vii), and (e)(4)(viii).

Dated: June 4, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 07–2883 Filed 6–6–07; 1:35 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[Docket No. TX–057–FOR]

Texas Regulatory Program and Abandoned Mine Land Reclamation Plan

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

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of revisions to a previously proposed amendment to the Texas regulatory program (Texas program) and the Texas abandoned mine land plan (Texas plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The revisions concern "determination of amount of penalty" in the Texas regulations and "administrative penalties for violation of permit conditions" in the Texas statute. Texas intends to improve operational efficiency.

This document gives the times and locations that the Texas program and Texas plan and proposed amendments to that program and plan are available for your inspection and the comment period during which you may submit written comments on the revisions to the amendment.

DATES: We will accept written comments until 4 p.m., c.t., June 26, 2007.

ADDRESSES: You may submit comments, identified by Docket No. TX–057–FOR, by any of the following methods:

- *E-mail: athomas@osmre.gov.* Include "Docket No. TX–057–FOR" in the subject line of the message.
- *Mail/Hand Delivery:* A. Dwight Thomas, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128.
- *Fax:* (918) 581–6419.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Comment Procedures" heading

of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Texas program and Texas plan, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office: A. Dwight Thomas, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128, Telephone: (918) 581–6430, *E-mail: athomas@osmre.gov.*

In addition, you may review a copy of the amendment during regular business hours at the following location: Surface Mining and Reclamation Division, Railroad Commission of Texas, 1701 North Congress Avenue, Austin, Texas 78711–2967, *Telephone:* (512) 463–6900.

FOR FURTHER INFORMATION CONTACT: A. Dwight Thomas, Acting Director, Tulsa Field Office. Telephone: (918) 581–6430. *E-mail: athomas@osmre.gov.*

SUPPLEMENTARY INFORMATION:

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

I. Background on the Texas Program and Texas Plan

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Texas program effective February 16, 1980. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Texas program in the February 27, 1980, **Federal Register** (45 FR 12998). You can also find later actions concerning the Texas program and program amendments at 30 CFR 943.10, 943.15 and 943.16.

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Indian Tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary of the Interior (Secretary) for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. On the basis of these criteria, the Secretary approved the Texas plan on June 23, 1980. You can find background information on the Texas plan, including the Secretary's findings, the disposition of comments, and the approval of the plan in the June 23, 1980, **Federal Register** (45 FR 41937). You can find later actions concerning the Texas plan and amendments to the plan at 30 CFR 943.25.

II. Description of the Proposed Amendment

By letter dated February 14, 2007 (Administrative Record No. TX–662), and at its own initiative, Texas sent us an amendment to its program and plan under SMCRA (30 U.S.C. 1201 *et seq.*). We announced receipt of the proposed amendment in the April 30, 2007, **Federal Register** (72 FR 21185) and invited public comment on its adequacy. The public comment period ended May 30, 2007.

During our review of the amendment, the Railroad Commission of Texas notified us that the Texas legislation that would raise the State's administrative penalty for violations had been capped at $10,000 instead of the $13,000 as proposed in the amendment to the Texas program submitted to us on February 14, 2007 (Administrative Record No. TX–662). On May 7, 2007, Texas sent us a revision to its amendment that pertains to its regulatory program (Administrative Record No. TX–662.03).

Texas submitted additional revisions for the following provisions of the amendment:

A. Revisions to Texas' Regulations, Title 16 Texas Administrative Code (TAC)

Section 12.688 Determination of Amount of Penalty

Texas' penalty schedule currently begins with a minimum penalty of $20 and increases to a maximum penalty of $5,000. Texas proposes to change the penalty schedule so that it begins with a minimum penalty of $550 and increases to a maximum penalty of $10,000. Texas proposes to increase the penalties to reflect the decreased value in the dollar since the penalty schedule was promulgated in 1979.

B. Revisions to Texas' Statute, Chapter 134 Texas Natural Resources Code

Section 134.174 Administrative Penalty for Violation of Permit Condition of this Chapter

Texas proposes to revise subsection (b) to read as follows:

(b) The penalty may not exceed $10,000 for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

III. Public Comment Procedures

We are reopening the comment period on the proposed Texas program and Texas plan amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. Under the provisions of 30 CFR 732.17(h) and 30 CFR 884.15(a), we are seeking comments on whether the proposed amendment satisfies the applicable program and plan approval criteria of 30 CFR 732.15 and 30 CFR 884.14, respectively. If we approve the amendment, it will become part of the Texas program and Texas plan, as appropriate.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Tulsa Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of

encryption. Please also include "Attn: Docket No. TX–057–FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581–6430.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

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

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This determination is based on the fact that the Texas program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Texas program has no effect on Federally-recognized Indian tribes.

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

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

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 25, 2007.

Ervin J. Barchenger,

Acting Regional Director, Mid-Continent Region.

[FR Doc. E7–11193 Filed 6–8–07; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 070514119–7120–01; I.D. 042307D]

RIN 0648–AV51

Certification of Nations Whose Fishing Vessels Are Engaged in Illegal, Unreported, or Unregulated Fishing or Bycatch of Protected Living Marine Resources

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

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: NMFS issues this advance notice of proposed rulemaking to announce that it is developing certification procedures to address illegal, unreported, or unregulated (IUU) fishing activities and bycatch of protected living marine resources pursuant to the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act). NMFS is seeking advance public comment on the development of these procedures and on the sources and types of information to be considered in the process. NMFS plans to arrange for one or more opportunities to obtain public input on the certification procedures. Dates and locations of any such opportunities will be published in the **Federal Register** at a later date.

DATES: Written comments must be received by July 26, 2007.

ADDRESSES: Written comments on this action and requests for background information should be addressed to Christopher Rogers, Trade and Marine Stewardship Division, Office of International Affairs, NMFS. Comments and requests may be submitted by any of the following methods:

- Email: *0648–AV51@noaa.gov*. Including "0648–AV51" in the subject line of the e-mail comment. Comments sent via e-mail, including all attachments, must not exceed a 10 megabyte file size.
- Federal e-Rulemaking portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Christopher Rogers, Trade and Marine Stewardship Division, Office of International Affairs, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Christopher Rogers (ph. 301–713–9090, fax 301–713–9106, e-mail *christopher.rogers@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Background

The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Public Law 109–479), which was signed into law in January 2007, amends the Moratorium Protection Act (Public Law 104–43) to require actions be taken by the United States to strengthen international fishery management organizations and address IUU fishing and bycatch of protected living marine resources. Specifically, the Moratorium Protection Act requires the Secretary of Commerce to identify in a biennial report to Congress those foreign nations whose vessels are engaged in IUU fishing or fishing that results in bycatch of protected living marine resources. The Moratorium Protection Act also requires the establishment of procedures to certify whether nations identified in the biennial report are taking appropriate corrective actions to address IUU fishing or bycatch of protected living marine resources by fishing vessels of that nation. Based upon the outcome of the certification procedures developed in this rulemaking, nations could be subject to import prohibitions and other measures under the authority provided in the High Seas Driftnet Fisheries Enforcement Act at 16 U.S.C. 1826a (Enforcement Act) if they are not positively certified by the Secretary of Commerce. The Secretary of Commerce has delegated authority under this Act and the Moratorium Protection Act to NMFS. In addition to the Moratorium Protection and Enforcement Acts, NMFS notes that there are identification and/or certification procedures in other statutes, including the Pelly Amendment to the Fishermen's Protective Act at 22 U.S.C. 1978. This advance notice of proposed rulemaking solicits public input on the new Moratorium Protection Act provisions and applicable Enforcement Act provisions, as well as general identification and certification considerations.

Definitions under the Moratorium Protection Act

For purposes of the Moratorium Protection Act, "IUU fishing" is defined as fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including catch limits or quotas, capacity restrictions, and bycatch reduction requirements; overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; and fishing activity that has an adverse impact on seamounts, hydrothermal vents, and cold water corals located beyond national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement. See 16 U.S.C. 1826j. This definition of IUU fishing was published in the **Federal Register** on April 12, 2007 (72 FR 18404) and is codified at 50 CFR part 300.

"Protected living marine resources" is defined in the Moratorium Protection Act as non-target fish, sea turtles, or marine mammals that are protected under United States law or international agreement, including the Marine Mammal Protection Act, the Endangered Species Act, the Shark Finning Prohibition Act, and the Convention on International Trade in Endangered Species of Wild Flora and Fauna; but they do not include species, except sharks, that are managed under the Magnuson-Stevens Fishery Conservation and Management Act, the Atlantic Tunas Convention Act, or any international fishery management organization. See 16 U.S.C. 1826k.

Biennial Report to Congress on International Compliance

The Moratorium Protection Act (see 16 U.S.C. 1826h) requires that the Secretary, in consultation with the Secretary of State, provide Congress (by no later than January 12, 2009, and every two years thereafter), a report that includes:

1. the state of knowledge on the status of international living marine resources shared by the United States or subject to treaties or agreements to which the United States is a party, including a list of all such fish stocks classified as overfished, overexploited, depleted,

endangered, or threatened with extinction by any international or other authority charged with management or conservation of living marine resources;

2. a list of nations whose vessels have been identified pursuant to the Moratorium Protection Act for engaging in IUU fishing or bycatch of protected living marine resources, including the specific offending activities and any subsequent actions taken pursuant to the Act;

3. a description of efforts taken by nations on those lists to take appropriate corrective action consistent with the Moratorium Protection Act, and an evaluation of the progress of those efforts, including steps taken by the United States to implement those sections and to improve international compliance;

4. progress at the international level to strengthen the efforts of international fishery management organizations to end IUU fishing; and

5. steps taken by the Secretary at the international level to adopt international measures comparable to those of the United States to reduce impacts of fishing and other practices on protected living marine resources, if no international agreement to achieve such goal exists, or if the relevant international fishery or conservation organization has failed to implement effective measures to end or reduce the adverse impacts of fishing practices on such species.

Identification Under the Moratorium Protection Act

Section 609 of the Moratorium Protection Act (see 16 U.S.C. 1826j(a)) requires the Secretary to identify, and list in the biennial report, a nation if fishing vessels of that nation are engaged, or have been engaged at any point during the preceding two years, in IUU fishing; and (1) the relevant international fishery management organization has failed to implement effective measures to end the IUU fishing activity by vessels of that nation or that the nation is not a party to, or does not maintain cooperating status with such organization; or (2) where no international fishery management organization exists with a mandate to regulate the fishing activity in question.

Section 610 of the Moratorium Protection Act (see 16 U.S.C. 1826k(a)) requires the Secretary to identify, and list in the biennial report, a nation if:

1. fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year in fishing activities or practices;

A. in waters beyond any national jurisdiction that result in bycatch of a protected living marine resource; or

B. beyond the exclusive economic zone of the United States that result in bycatch of a protected living marine resource shared by the United States.

2. the relevant international organization for the conservation and protection of such resources or the relevant international or regional fishery organization has failed to implement effective measures to end or reduce such bycatch, or the nation is not a party to, or does not maintain cooperating status with, such organization; and

3. the nation has not adopted a regulatory program governing such fishing practices designed to end or reduce such bycatch that is comparable to that of the United States, taking into account different conditions.

Reliable and timely information is critical to making accurate and effective use of identification provisions under the Moratorium Protection Act. Potential sources of information for identification of nations whose vessels are engaged in IUU fishing or bycatch of protected living marine resources could include IUU vessel lists from RFMOs, as well as reports from RFMOs on vessels engaged in IUU fishing or bycatch of protected living marine resources. In addition, foreign, federal, state, and local governments; nongovernmental organizations; industry organizations; and citizens and citizen groups from both the United States and other foreign nations could be potential sources of information. Such information might include photographs or video of vessels engaging in IUU activities and/or fisheries with bycatch of protected living marine resources, surveillance from satellite and Vessel Monitoring Systems (VMS), observations and testimony from crew and/or observers, nongovernmental organizations, industry representatives, and citizens and citizen groups.

NMFS will assess different approaches for evaluating pieces of information related to nations whose fishing vessels are alleged to be engaged in IUU fishing activities or bycatch of protected living marine resources. Considerations for potential sources of information to be used include:

- Accessibility and transparency of the collected data/information and methodology used to collect the data/information;
- Specificity of the information;
- Susceptibility of the media to falsification and alteration;

NMFS seeks input on the above and other relevant sources of information, as well as other issues related to identification under the Moratorium Protection Act.

Notification and Consultation Procedures

Identifications under the Moratorium Protection Act are deemed to be identifications under the Enforcement Act. See 16 U.S.C. 1826j. Accordingly, the Secretary of Commerce would notify both the President and the affected nations of such identifications.

For IUU identifications, no later than 60 days after submission of the biennial report to Congress, the Secretary of Commerce, acting through the Secretary of State, is to notify nations identified in the biennial report of the requirements of the Moratorium Protection Act and initiate consultations for the purpose of encouraging such nations to take the appropriate corrective action with respect to the offending activities of their fishing vessels identified in the report. The Secretary of Commerce, acting through the Secretary of State, would also notify any relevant international fishery management organization of actions taken by the United States under Section 609 of the Moratorium Protection Act. See 16 U.S.C. 1826j.

For nations whose vessels engage in fishing activities or practices described in section 610(a) of the Moratorium Protection Act, the Secretary of Commerce, acting through the Secretary of State, is to notify these nations about the requirements of the Moratorium Protection Act as soon as possible. The Secretary of Commerce, acting through the Secretary of State, is also called upon to initiate discussions as soon as possible with all foreign governments that are engaged in, or that have persons or companies engaged in, fishing activities or practices described in section 610(a), for the purpose of entering into bilateral and multilateral treaties with these countries to protect such species. In addition, the Secretary of State, acting on behalf of the Secretary of Commerce, is called upon to seek agreements calling for international restrictions on fishing activities or practices described in section 610(a) through the United Nations, the Food and Agriculture Organization's Committee on Fisheries, and appropriate international fishery management bodies; and initiate the amendment of any existing international treaty for the protection and conservation of such species to which the United States is a party in order to make such treaty consistent with the purposes and policies of section 610 of the Moratorium Protection Act. See 16 U.S.C. 1826k.

Certification of Nations

The Moratorium Protection Act calls for the Secretary of Commerce to establish procedures through rulemaking to certify identified nations under sections 609(d) and 610(c). In order to positively certify an identified nation for IUU fishing, the Secretary shall determine (A) whether the government of an identified nation has provided documentary evidence that it has taken corrective action with respect to the offending activities of its fishing vessels identified in the report; or (B) whether the relevant international fishery management organization has implemented measures that are effective in ending the IUU fishing by vessels of that nation. See 18 U.S.C. 1826j(d)(1).

In order to positively certify a nation identified for bycatch of protected living marine resources, the Secretary shall determine that the government of an identified nation (A) has provided documentary evidence of the adoption of a regulatory program governing the conservation of the protected living marine resource that is comparable to that of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and (B) has established a management plan containing requirements that will assist in gathering species-specific data to support international stock assessments and conservation enforcement efforts for protected living marine resources. See 18 U.S.C. 1826k(c)(1).

Pursuant to the requirements under the Moratorium Protection Act, NMFS will publish certification of nations in the biennial report for Congress. However, the first certification of nations previously identified for having vessels that engaged in IUU fishing activities will occur no later than 90 days after the date of promulgation of the subsequent final rule. NMFS is also considering publishing certification decisions in the **Federal Register** concurrent with the publication of the biennial report and providing an opportunity for comment on these actions.

Information for Certification

NMFS is considering the following sources of information in determining the certification of nations whose vessels are engaged in IUU fishing or bycatch of protected living marine resources: information on non-compliance with RFMO measures to address IUU fishing (as identified by the RFMO); information on non-compliance with measures that have been recommended by the United Nations to address IUU fishing; whether the relevant RFMO has failed to implement effective measures to end IUU fishing activity or end or reduce bycatch of protected species; whether an identified nation is not party to, or does not maintain cooperating status with the relevant RFMO; whether a competent RFMO exists that regulates the IUU fishing activity in question; and whether the identified nation has provided sufficient documentary evidence of corrective action taken to end IUU fishing or adoption of a regulatory program to end or reduce bycatch that is comparable to that of the United States, accounting for regional conditions. NMFS seeks input on the above and other relevant sources of information, and other issues related to certification under the Moratorium Protection Act.

Effect of Certification

Where NMFS negatively certifies a nation identified in the biennial report, or in cases where NMFS cannot make a certification determination for an identified nation whose vessels engaged in IUU fishing or bycatch of protected living marine resources, the Moratorium Protection Act provides for the application of sections 101(a) and sections 101(b)(3) and (b)(4) of the Enforcement Act. See 16 U.S.C. 1826a(a), and 1826a(b)(3) and (b)(4). Relevant provisions of that Act include the following:

- The Secretary of Treasury shall, in accordance with recognized principles of international law deny entry of that vessel to any place in the United States and to the navigable waters of the United States;
- For nations whose vessels engaged in IUU fishing, the President shall direct the Secretary of Treasury to prohibit the importation into the United States of fish or fish products, except to the extent that such provisions would apply to sport fishing equipment or to fish or fish products not managed under the applicable international fishery agreement; or if there is no applicable international fishery agreement, to the extent that such provision would apply to fish or fish products caught by vessels not engaged in IUU fishing;
- For nations whose vessels engaged in bycatch of protected living marine resources, the President shall direct the Secretary of Treasury to prohibit the importation into the United States of fish or fish products, except to the extent that such provisions apply to sport fishing equipment or fish or fish products not caught by vessels engaged in IUU fishing; and
- Possible additional measures.

Alternative Procedures

Section 609(d)(2) of the Moratorium Protection Act authorizes NMFS to establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation that is not certified in the biennial report under section 609(d)(1), if NMFS determines that: (A) the vessel has not engaged in IUU fishing under an international fishery management agreement to which the United States is a party; or (B) the vessel is not identified by an international fishery management agreement as participating in IUU fishing activities.

In addition, section 610(c)(4) of the Moratorium Protection Act authorizes NMFS to establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation that is not certified in the biennial report under section 610(c)(1), if NMFS determines that such imports were harvested by practices that do not result in bycatch of a protected living marine species, or were harvested by practices that: (A) are comparable to those of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and (B) include the gathering of species-specific data that can be used to support international and regional stock assessments and conservation efforts for protected living marine resources.

The Moratorium Protection Act envisions a multilateral process to implement effective measures to end IUU fishing and eliminate or reduce the bycatch of protected living marine resources. In the case of bycatch of protected living marine resources, NMFS plans to work on a bilateral and/or multilateral basis to assist nations with the adoption of regulatory measures designed to end or reduce bycatch that are comparable to those measures applied in the United States, taking into account relevant environmental and/or socioeconomic conditions that may bear on their effectiveness.

Public Comment

You may submit information and comments concerning this advanced notice of proposed rulemaking by any one of several methods (see **ADDRESSES**).

During the comment period, NMFS plans to arrange for one or more opportunities to obtain public input on the certification procedures. Prior notice of the dates, times and locations of any such opportunities will be published in the **Federal Register**.

Information related to the international fisheries provisions of the Moratorium Protection Act can be found on the NMFS Web site at *http://www.nmfs.noaa.gov/*. NMFS will consider all comments and information received during the comment period in preparing a proposed rule.

Classification

This advance notice of proposed rulemaking has been determined to be not significant for the purposes of Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 1826d–1826k.

Dated: June 5, 2007.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. E7–11254 Filed 6–8–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 72, No. 111

Monday, June 11, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 6, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA__Submission@OMB.EOP.GOV* or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-8681.

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.

Agricultural Marketing Service

Title: Fruit and Vegetable Market News Reports.

OMB Control Number: 0581-0006.

Summary of Collection: Section 203(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621) directs and authorizes the collection of information and disseminating of marketing information including adequate outlook information on a market-area basis for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income and bring about balance between production and utilization of agriculture products. Market News provides all interested segments of the market chain with market information tends to equalize the competitive position of all market participants. The fruit and vegetable industries, through their organizations, or government agencies present formal requests that the Department of Agriculture issue daily, weekly, semi-monthly, or monthly market news reports on various aspects of the industry.

Need and Use of the Information: AMS will collect information for the production of Market News reports that are then available to the industry and other interested parties in various formats. Information is provided on a voluntary basis and is gathered through confidential telephone and face-to-face interviews by market reporters.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 18,274.

Frequency of Responses: Reporting: Weekly; Monthly.

Total Burden Hours: 109,497.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–11237 Filed 6–8–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 6, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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Rural Housing Service

Title: 7 CFR 1927–B, "Real Estate Title Clearance and Loan Closing".

OMB Control Number: 0575–0147.

Summary of Collection: Rural Development and the Farm Service Agency are the credit agencies for the Department of Agriculture. They offer a supervised credit program to build family farms, modest housing, sanitary water and sewer systems, essential community facilities, businesses and industries in rural areas. Section 306 of the Consolidated Farm and Rural Development Act (CONTACT), 7 U.S.C. 1926, authorizes RUS to make loans to

public agencies, American Indian tribes, and non-profit corporations. The loans fund the development of drinking water, wastewater, and solid waste disposal facilities in rural areas with populations of up to 10,000 residents. Section 501 of Title V of the Housing Act provides authorization to extend financial assistance to construct, improve, alter, repair, replace or rehabilitate dwellings and to provide decent, safe and sanitary living conditions in rural areas. The Secretary of Agriculture is authorized to prescribe regulations to ensure that these loans, made with federal funds, are legally secured.

Need and Use of the Information: The approved attorney/title company (closing agent) and the field office staff collect the required information. Forms and or guidelines are provided to assist in the collection, certification and submission of this information. Most of these forms collect information that is standard in the industry. If the information is collected less frequently, the agency would not obtain the proper security position on the properties being taken as security and would have no evidence that the closing agents and agency meet the requirements of this regulations.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit Institutions; Farms.

Number of Respondents: 18,410.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 25,042.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–11239 Filed 6–8–07; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0048]

Removal of Emergency Action Notice for Tiffany Creek Preserve in New York

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are giving notice that we have lifted restrictions placed on Tiffany Creek Preserve in Nassau County, NY. In 2004, the preserve was put under an Emergency Action Notice after a sample taken from a northern red oak tested positive for *Phytophthora ramorum.* The preserve was required to undergo biannual surveys for *P. ramorum* for 2 years, the last of which was conducted in September 2006. The results of all surveys conducted in Tiffany Creek Preserve, Nassau County, and the State of New York were negative. Therefore, we have released Tiffany Creek Preserve from all restrictions related to *P. ramorum* and consider no further surveys or actions are warranted.

EFFECTIVE DATE: January 25, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan M. Jones, Senior Staff Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 160, Riverdale, MD 20737–1231; (301) 734–8247.

SUPPLEMENTARY INFORMATION: *Phytophthora ramorum* is a pathogen that causes the plant diseases commonly known as sudden oak death, ramorum leaf blight, and ramorum dieback. Since its initial discovery in Marin County, CA, in 1995, *P. ramorum* has been confirmed to exist in 13 additional northern California counties and in a portion of Curry County, OR. *P. ramorum* has caused the death of thousands of mature oaks in these counties, and there is presently no known treatment for infected plants that kills the fungus but allows plants to survive.

On June 30, 2004, a survey for *P. ramorum* was conducted at Tiffany Creek Preserve in Nassau County, NY. One of the samples taken during that survey was from a northern red oak tree. The sample was tested using an Animal and Plant Health Inspection Service (APHIS) nested polymerase chain reaction protocol that resulted in reactions that indicated the presence of *P. ramorum.* The tree was removed and destroyed and APHIS, under the authority of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), placed the preserve under Emergency Action Notice (EAN) to contain any related risk. Under the EAN, the movement of soil, forest products, wood, and any plant material from the preserve was prohibited. APHIS also required 2 years of biannual surveys of the preserve, including sampling of the soil and water to determine if there were any indications of *P. ramorum* that could be associated with Tiffany Creek Preserve. In the EAN, we stated that if after 2 years all survey results were negative, the EAN would be lifted.

Delimiting surveys, the last of which was conducted in September 2006, of the Preserve and testing of all unhealthy appearing trees and shrubs yielded no further positive results and no sign of *P. ramorum* infestation. Surveys of the Preserve and surrounding natural environments in Nassau County and neighboring Suffolk County resulted in no further detections. In New York, no forests or nurseries surveyed have had *P. ramorum* detected. Therefore, we are giving notice that we have lifted restrictions on Tiffany Creek Preserve and that *P. ramorum* is known not to occur at Tiffany Creek Preserve and is not known to occur at any other location within Nassau County or the State of New York.

Done in Washington, DC this 5th day of June 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–11242 Filed 6–8–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Washington Province Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Washington Province Advisory Committee will meet on Friday, July 13, 2007, at the Gifford Pinchot National Forest Headquarters, 10600 NE 51st Circle, Vancouver, WA 98682. The meeting will begin at 9:30 a.m. and continue until 4 p.m.

The purpose of the meeting is to share information and receive feedback on: Special Forest Products on the Gifford Pinchot National Forest; Update on the Gifford Pinchot National Forest's Flood Damage; and to share information among Committee members.

All Southwest Washington Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The "open forum" provides an opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The "open forum" is scheduled for 1:30 p.m. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on Committee business at any time.

FOR FURTHER INFORMATION CONTACT: Chris Strebig, Public Affairs Officer, at (360) 891–5005, or write Forest Headquarters Office: Gifford Pinchot National Forest, 10600 NE 51st Circle, Vancouver, WA 98682.

Dated: June 4, 2007.

Claire Lavendel,

Forest Supervisor.

[FR Doc. 07–2881 Filed 6–8–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Development

Notice Inviting Applications for Biomass Research and Development

AGENCY: Rural Development, USDA.

ACTION: Notice.

SUMMARY: The U.S. Department of Energy (DOE) and the U.S. Department of Agriculture (USDA) jointly solicit applications for financial assistance addressing research and development of biomass based products, bioenergy, biofuels and related processes. This Notice herein referred to as the "Solicitation" is intended to promote greater innovation and development related to biomass, and to support the Biomass Research Development Act of 2000, the Healthy Forest Restoration Act of 2003, the Energy Policy Act of 2005, and Federal policy calling for greater use of biomass-based products, feedstock production, and processing and conversion.

This joint USDA/DOE solicitation for FY07 reflects the technical areas identified in the Biomass Research and Development Act of 2000 as amended by the Energy Policy Act of 2005. These technical areas will assist DOE and USDA in developing and maintaining a balanced portfolio of activities under the Federal Government's Biomass program to effectively advance cost effective utilization of biomass for the production of biobased fuels and products. DOE and USDA will have separate funding allocations and make separate awards under this Notice.

DATES: Pre-applications must be submitted no later than July 11, 2007, not later than 8 p.m. Eastern Time. The closing date for applications (only for those pre-applications which have been selected for further processing) will be 45 calendar days following notice of invitation by Agency, not later than 8 p.m. Eastern Time. You are encouraged to transmit your application well before the deadline. Applications received after the deadline will not be reviewed or considered for an award. The comment period for the information collection under the Paperwork Reduction Act of 1995 continues through August 10, 2007.

ADDRESSES: For further information contact Lisa Siesennop, Business Loan and Grant Analyst, USDA Rural Development, 1400 Independence Ave, SW., 6870, Stop 3225, Washington, DC 20250–3225, Telephone: (202) 690–3810, Fax: (202) 720–6561, E-mail: *lisa.siesennop@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 81.087. This program is subject to Executive Order 12372, which requires Intergovernmental consultation with State and local officials. Intergovernmental consultation will occur in accordance with the process and procedures outlined in 7 CFR part 3015 subpart V.

Paperwork Reduction Act

The collection of information requirements contained in this Notice has been submitted to the Office of Management and Budget (OMB) for temporary emergency clearance. However, in accordance with the Paperwork Reduction Act of 1995, USDA Rural Development will seek standard OMB approval of the reporting requirements contained in this Notice and hereby opens a 60-day public comment period.

Title: Biomass Research and Development Initiative.

Type of Request: New collection.

Abstract: Rural Development needs to receive the information contained in this collection of information to select the projects that demonstrate the greatest potential for success. The selection process is competitive. Rural Development will ensure that the funds are used for the intended purpose.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 11 hours per response.

Respondents: Institutions of higher education; National laboratories; Federal research agencies; State research agencies; private sector entities to include companies, corporations, cooperatives, and other entities that compete in the marketplace; nonprofit organizations, other than 501(c)(4) organizations that engage in lobbying, and a consortium of two or more of these entities.

Estimated Number of Respondents: 466.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Responses: 871.

Estimated Total Annual Burden on Respondents: 9,252 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, at (202) 692–0043.

Comments: Comments are invited on: (a) The accuracy of Rural Development's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (b) ways to enhance the quality, utility and clarity of the information to be collected; and (c) ways to minimize the burden of the collection 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. Comments may be sent to Cheryl Thompson, Regulations and Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW., Washington, DC 20250. All responses to this Notice will be summarized and included in the request for OMB approval. All comments will also be a matter of public record.

E-Government Act Compliance

The Department of Agriculture is committed to complying with the E-Government Act of 2002 (Pub. L. 103–347, December 17, 2002), to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes. To demonstrate commitment for the E-Government Act, USDA is requiring that all applicants intending to submit pre-applications or applications in response to this solicitation use Grants.gov in the submission process.

I. Funding Opportunity Description

Authority

The authority for the Biomass Research and Development Initiative (Initiative) is 7 U.S.C. 8606.

Objectives

The objectives of the Initiative as set out in 7 U.S.C. 8606(b) are to develop:

(1) Technologies and processes necessary for abundant commercial production of biobased fuels at prices competitive with fossil fuels;

(2) High-value biobased products;

(A) To enhance the economic viability of biobased fuels and power; and

(B) As substitutes for petroleum-based feedstocks and products; and

(3) A diversity of sustainable domestic sources of biomass for conversion to biobased fuels and biobased products.

Purposes

The purposes of the Initiative as set out in 7 U.S.C. 8606(c) are:

(1) To increase the energy security of the United States;

(2) To create jobs and enhance the economic development of the rural economy;

(3) To enhance the environment and public health; and

(4) To diversify markets for raw agricultural and forestry products.

DOE and USDA are, therefore, seeking applications to address the Technical Areas set out in 7 U.S.C. 8606(d) and listed here as the only eligible topic areas under this Solicitation. Each individual application must address only one Technical Area. However, an applicant may submit multiple, unique applications in order to respond to multiple topics or may submit multiple unique applications to a single topic area. If invited to submit an application, the application must address only the specific pre-application subject matter and technical area as identified in the invitation letter sent from the Agency to the applicant.

Technical Topic Areas

The Technical Areas as set out in 7 U.S.C. 8606(d) are described below and in more detail in Appendix A.

(1) Feedstock production through the development of crops and cropping systems relevant to production of raw materials for conversion to biobased fuels and biobased products. (USDA Topic)

(2) Overcoming recalcitrance of cellulosic biomass through developing technologies for converting cellulosic biomass into intermediates that can subsequently be converted into biobased fuels and biobased products. (USDA and DOE Topic)

(3) Product diversification through technologies relevant to production of a range of biobased products (including chemicals, animal feeds, and cogenerated power) that eventually can increase the feasibility of fuel production in a biorefinery. (USDA Topic)

(4) Analysis that provides strategic guidance for the application of biomass technologies in accordance with realization of improved sustainability and environmental quality, cost effectiveness, security, and rural economic development, usually featuring system-wide approaches. (USDA Topic)

Definitions Applicable to This Notice

Agency. The United States Department of Agriculture, Rural Development, or the United States Department of Energy, either or both acting on behalf of the Federal government.

Applicant. The legal entity submitting the pre-application or application. This entity may be one eligible organization or a consortium of eligible organizations that has chosen to submit a single application in response to a solicitation.

Application. The documentation submitted at the Agency's invitation after submitting a pre-application NOTE: Application is referred to as "proposal" in the DOE Industry Interactive Procurement System (IIPS).

Award. The written documentation executed by DOE or USDA Contracting Officer, after an applicant is selected, which contains the negotiated terms and conditions for providing financial assistance to the applicant. A Financial Assistance Award may be either a grant or (for DOE) a cooperative agreement.

Biobased Fuel. Any transportation fuel produced from biomass.

Biobased Product. An industrial product (including chemicals, materials, and polymers) produced from biomass, or a commercial or industrial product (such as animal feed and electric power) derived in connection with the conversion of biomass to fuel.

Biomass. Any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residue fibers, animal wastes, municipal wastes, and other waste materials.

Budget. The cost expenditure plan submitted in the application, including both the Federal Government contribution and the applicant Cost Share.

Consortium (plural consortia). The group of eligible organizations that have chosen to submit a single pre-application or application in response to this Solicitation.

Contracting Officer. The Agency official authorized to execute awards on behalf of DOE or USDA who is responsible for the business management and non-program aspects of the Financial Assistance process.

Cooperative Agreement. A Financial Assistance instrument used by DOE to transfer money or property when the principal purpose of the transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute, and Substantial Involvement (see definition below) is anticipated by DOE during the performance of the contemplated activity.

Cost Sharing. The respective share of Total Project Costs to be contributed by the Applicant and by the Federal Government. The percentage of Applicant Cost Share is to be applied to the Total Project Cost (*i.e.*, the sum of Applicant plus Federal Government Cost Shares) rather than to the DOE or the USDA contribution alone.

Data Universal Numbering System (DUNS) Number. A unique nine-character identification number issued by Dun and Bradstreet (D&B). Organizations must obtain a DUNS number, free of charge, prior to registering in the CCR by contacting D&B at 1–866–705–5711 or via the internet at *http://www.grants.gov/RequestaDUNS*.

Demonstration. Demonstration of technology in a pilot plant or semi-works scale facility.

Financial Assistance. The transfer of money to an applicant to accomplish a public purpose under this Solicitation through Grants or (for DOE) Cooperative Agreements.

Federally Funded Research and Development Center (FFRDC). A research laboratory as defined by Federal Acquisition Regulation 35.017.

Grant. A Financial Assistance instrument used by DOE or USDA to transfer money when the principal purpose of the transaction is to accomplish a public purpose of support or stimulation under this Solicitation and no Substantial Involvement is anticipated by DOE or USDA during the performance of the contemplated activity.

Grants.gov. The "storefront" web portal which allows organizations to electronically find and apply for competitive grant opportunities from all Federal grant-making agencies. Grants.gov is the single access point for over 900 grant programs offered by the 26 Federal grant-making agencies. *http://www.grants.gov*

Key Personnel. The individuals who will have significant roles in planning and implementing the proposed Project on the part of the Applicant, including FFRDCs.

Pre-application. The documentation submitted in response to this Notice. NOTE: Application is referred to as "proposal" in the DOE Industry Interactive Procurement System (IIPS).

Project. The set of activities described in an Application that is approved by DOE or USDA for Financial Assistance (whether such Financial Assistance represents all or only a portion of the support necessary to carry out those activities).

Proposal. The term used in IIPS meaning the documentation submitted

in response to a solicitation. Also see definition for Application.

Recipient. The organization that receives a Financial Assistance Award from the Agency, is financially accountable for the use of any Agency funds or property provided for the performance of the Project, and is legally responsible for carrying out the terms and condition of the award.

Selection Official. The Agency official designated to select Applications for negotiation toward award under a solicitation. Each Agency will have its own Selection Official.

Substantial Involvement. Significant involvement by the Government which may include shared responsibility for the performance of the Project; providing technical assistance or guidance which the Applicant is to follow; and the right to intervene in the conduct or performance of the Project. Such involvement will be negotiated with each Applicant prior to signing any agreement.

Total Project Cost. The Agency approved expenses for completing the Project.

II. Award Information

Grant Amounts

Up to $4 million in DOE funding and up to $12 million in USDA funding is available for new awards under this Solicitation. The maximum amount for an individual award made under this Solicitation is $1 million. DOE and USDA anticipate making a total of 16–30 awards under this Solicitation, depending on the size of the awards.

Funding Distribution

As directed by 7 U.S.C. 8606(g)(2), the distribution of funding by technical area shall be distributed to achieve an approximate award distribution as follows:

(1) Feedstock Production: 20 percent.

(2) Overcoming Recalcitrance of Cellulosic Biomass: 45 percent.

(3) Product Diversification: 30 percent.

(4) Analysis for Strategic Guidance: 5 percent.

As directed by 7 8606(g)(3), the funding distribution areas within the first three technical areas shall be distributed to achieve an approximate award distribution as follows:

(1) Applied fundamentals: 15 percent.

(2) Innovation: 35 percent.

(3) Demonstration: 50 percent.

III. Eligibility Information

Applicant Eligibility

All entities listed under 7 U.S.C. 8606(f) are eligible to apply, except nonprofit organizations described in section 501(c)(4) of the Internal Revenue Code of 1986 that engaged in lobbying activities after December 31, 1995. Eligible entities are:

(a) Institutions of higher education (as defined in 20 U.S.C. 1002(a)). Institutions of higher education include colleges and universities beyond the secondary education level;

(b) National Laboratories (as defined in 42 U.S.C. 15801);

(c) Federal research agencies;

(d) State research agencies;

(e) Private sector entities. Private sector entities include companies, corporations, cooperatives, and other entities that compete in the marketplace;

(f) Nonprofit organizations, other than 501(c)(4) organizations that engage in lobbying; or

(g) Consortia of 2 of more entities described in paragraphs (a) through (f) above. Consortia are encouraged in order to bring important capabilities together to best achieve the desired innovation on biomass projects.

Eligible FFRDC applicants may apply for an award under this Solicitation, or they may be proposed as a team member in both cases subject to the following guidelines:

(a) The Federal agency sponsoring the FFRDC must authorize in writing the participation of the FFRDC in the proposed project and this authorization must be submitted with the application. The use of a FFRDC must be consistent with its authority under its award. The following language is acceptable for this authorization.

> Authorization is granted for the _____ Laboratory to participate in the proposed project. The work proposed for the Laboratory is consistent with or complimentary to the missions of the Laboratory and will not adversely impact execution of the assigned programs at the Laboratory.

(b) The value of, and funding for, the FFRDC portion of the work, when the FFDRC is not the prime recipient, will not be included in the award to a successful applicant. DOE will fund a DOE/National Nuclear Security Administration FFRDC through the DOE field work proposal system and other FFRDC's will be funded by the Agency through an interagency agreement with the sponsoring FFRDC agency.

(c) The applicant, if successful, will be the responsible authority regarding the settlement and satisfaction of all contractual and administrative issues, including but not limited to, intellectual property agreement among the parties, disputes and claims arising out of any agreement between the applicant and the FFRDC.

Project Eligibility

The technical areas defined in 7 U.S.C. 8606(d) and listed here, are the only eligible topic areas under this Solicitation.

The technical areas are described below and in more detail in Appendix A.

(1) Feedstock production through the development of crops and cropping systems relevant to production of raw materials for conversion to biobased fuels and biobased products. (USDA Topic)

(2) Overcoming recalcitrance of cellulosic biomass through developing technologies for converting cellulosic biomass into intermediates that can subsequently be converted into biobased fuels and biobased products. (USDA and DOE Topic)

(3) Product diversification through technologies relevant to production of a range of biobased products (including chemicals, animal feeds, and cogenerated power) that eventually can increase the feasibility of fuel production in a biorefinery. (USDA Topic)

(4) Analysis that provides strategic guidance for the application of biomass technologies in accordance with realization of improved sustainability and environmental quality, cost effectiveness, security, and rural economic development, usually featuring system-wide approaches. (USDA Topic)

The term "demonstration" as defined in 7 U.S.C. 8602 means "demonstration of technology in a pilot plant or semi-works scale facility."

Grant Funding

(a) Costs must be allowable in accordance with the applicable Federal cost principles (see 10 CFR part 600 and 7 CFR part 3015 subpart T, as applicable).

(b) The applicant's cost share requirement will be based on the total project cost, including the applicant's and the FFRDC contractor's portions of the effort if any. If an FFRDC is the applicant, they are responsible for fulfilling the cost share requirement with non-Federal funds.

(c) As directed under 7 U.S.C. 8606(g)(4), the cost share borne by the applicant must be at least 20 percent of the total project costs for research and development and projects and 50 percent of the total project costs for projects designed to demonstrate the feasibility of commercial application and must come from non-Federal

sources. The sum of the Government share, including FFRDC contractor costs if applicable, and the recipient share of total project costs equals the total project cost. (For DOE see 10 CFR part 600 for the applicable cost sharing requirements.)

(d) For institutions of higher education, hospitals, for profit organizations, and non-profit organizations, costs incurred for a selected project may be charged to an award provided they were incurred within the ninety (90) calendar day period immediately preceding the execution of the grant agreement, if such costs are allowable in accordance with the applicable Federal cost principles (see 10 CFR part 600 and 7 CFR part 3015 subpart T). Recipients must obtain the prior approval of the Agency for any pre-award costs that are for periods greater than this 90 day calendar period.

(e) Pre-award costs are incurred at the recipient's risk. DOE and USDA are under no obligation to reimburse such costs if for any reason the applicant does not receive an award or if the award is made for a lesser amount than the applicant expected.

IV. Application and Submission Information

Application and Documentation

(a) *Grants.gov.* Applicants must submit pre-applications and, if selected, applications to the Agency in electronic format. The electronic format deadline will be based on Washington DC time.

Users of Grants.gov will be able to download a copy of the pre-application and application package, complete it off line, and then upload and submit the application via the Grants.gov site. You may not e-mail an electronic copy of a pre-application or application to USDA.

When you enter the Grants.gov site, you will find information about submitting an application electronically through the site as well as the hours of operation. USDA and DOE strongly recommend that you do not wait until the deadline date to begin the application process through Grants.gov. To use Grants.gov, applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number which can be obtained at no cost via a toll-free request line at 1–866–705–5711.

You must submit all documents electronically through the Grants.gov Web site including all necessary assurances and certifications.

After electronically submitting an application through the Web site, the applicant will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number.

USDA or DOE may request that the applicant provide original signatures on forms at a later date.

If applicants experience technical difficulties with the Grants.gov system on the closing date and are unable to meet the 8 p.m. (Washington, DC time) deadline, print out your pre-application or application and submit it to the National Office using the contact information provided in the Addresses section of this Solicitation. The Agency will verify the occurrence of technical difficulties with Grants.gov. If applicants submit a pre-application or application to the National Office, the pre-application or application must be postmarked by the closing date. Additionally, applicants are requested to use an express mail service (*e.g.*, FedEx, USPS, UPS, DHL) to submit their pre-application or application. No hand-delivered, e-mail, or Fax pre-applications or applications will be accepted.

Applicants may access the electronic grant application for the Biomass Research and Development Initiative at *http://www.grants.gov*.

Please note that applicants must locate the downloadable pre-application package for this program by the CFDA Number or FedGrants Funding Opportunity Number, which can be found at *http://www.grants.gov*.

(b) *Pre-applications.* Pre-applications are required and must be submitted electronically through Grants.gov at *www.Grants.gov*. You must complete the mandatory forms in accordance with the instructions on the forms and the additional instructions below. Files that are attached to the forms must be in Adobe Portable Document Format (PDF) unless otherwise specified in this Solicitation.

(1) The pre-application shall consist of a SF 424 "Application for Federal Assistance," form and the pre-application narrative, limited to no more than three additional pages when printed single-sided, plus cover sheet. The SF–424, the cover sheet, and the three-page project summary, as described herein, are required for a pre-application.

(i) *SF–424*—Complete this form first to populate data in other forms. Complete all required fields in accordance with the pop-up instructions on the form. To activate the instructions, turn on the "Help Mode" (Icon with the pointer and question mark at the top of the form). On the SF 424, applicants must complete Boxes 1, 2 and 5–18, checking "Non-construction" under "Pre-application" section of Box 1. Applicants must also indicate in Box 11, "Descriptive Title of Applicant's Project," their project's technical area from the Project Eligibility section of this Solicitation and described in more detail in Appendix A.

(ii) *Pre-application Narrative File—Mandatory Other Attachment.* Submit the following file with your pre-application and attach it to the Other Attachments Form. Click on "Add Mandatory Other Attachment" to attach the pre-application narrative file. This narrative must adhere to the following guidelines:

(A) The cover page should include the name and type of organization, the solicitation title, the project title, the project's technical area, the project's funding distribution area, a statement as to whether the project addresses cellulosic biomass, and both the technical and business points of contact for the applicant, showing the names, titles, addresses, telephone and facsimile numbers, and electronic mail addresses. (Note this page does not count against the narrative's specified page limit.)

(B) The project narrative must not exceed 3 pages, including charts, graphs, maps, photographs, and other pictorial presentations, when printed using standard 8.5" by 11" paper with 1 inch margins (top, bottom, left, and right). Evaluators will only review the number of pages specified in the preceding sentence.

(C) The font must not be smaller than 11 point.

(D) Do not include any Internet addresses (URLs) that provide information necessary to review the application.

(E) See Appendix B for instructions on how to mark proprietary application information.

(F) Save the information in a single file named "Project.pdf," and click on "Add Mandatory Other Attachment" to attach.

(G) The pre-application narrative should address the major aspects of the four technical evaluation criteria given below. The pre-application shall be organized into the following sections:

(1) Technical Relevance and Merit.

(2) Technical Approach/Work Plan.

(3) Fossil Fuel Displacement, Energy Efficiency, Rural Economic Development, and Environmental Benefits. Describe the benefits if the research is successful and in particular any potential fossil fuel displacement, energy efficiency, rural economic development, and environmental improvements. The framework of the

benefits can be at the local, state, or, if appropriate, national level.

(4) Technical, Management, and Facility Capabilities (include intellectual property, if appropriate).

Applicants are encouraged to read and understand the intent of each criterion before preparing their pre-application. It is the applicant's responsibility to address each criterion as fully as possible within the 3-page limit of the pre-application.

(iii) *Pre-application Review Process.* DOE and USDA will jointly perform the technical evaluation of all pre-applications, based on the criteria listed above. As a result of this pre-application review, each applicant will either be requested to submit an application package or be removed from consideration for funding under this Solicitation. In either case, a letter of explanation will be provided to each applicant. In addition all unsuccessful applicants will be provided appeal rights pursuant to 7 CFR part 11.

(c) *Application (By Invitation Only).* Following the pre-application review, selected applicants will be invited to submit an application package. Only applicants invited to submit an application may apply for an award. There is no commitment by DOE or USDA to fund a specific number of applications. All technical information provided in the application package must follow the format specified in the application and documentation section of this Solicitation. A discussion of each evaluation criteria is required. You must complete the mandatory forms and any applicable optional forms (*e.g.*, SF–LLL "Disclosure of Lobbying Activities") in accordance with the instructions on the forms and the additional instructions below. Files that are attached to the forms must be in Adobe Portable Document Format (PDF) unless otherwise specified in this Solicitation.

(1) SF–424. Complete this form first to populate data in other forms. Complete all required fields in accordance with the pop-up instructions on the form. To activate the instructions, turn on the "Help Mode" (Icon with the pointer and question mark at the top of the form). On the SF 424, applicants must complete Boxes 1, 2 and 5–18, checking "Non-construction" under "Pre-application" section of Box 1. Applicants must also indicate in Box 11, "Descriptive Title of Applicant's Project," their project's technical area from the Project Eligibility section of this Solicitation and described in more detail in Appendix A.

(2) *Other Attachments Form.* Submit the following files with your application and attach them to the Other Attachments Form. Click on "Add Mandatory Other Attachment" to attach the Project Narrative. Click on "Add Optional Other Attachment," to attach the other files.

(3) *Project Narrative—Mandatory Other Attachment.*

(i) The project narrative must not exceed 20 pages, including charts, graphs, maps, photographs, and other pictorial presentations, when printed using standard 8.5" by 11" paper with 1 inch margins (top, bottom, left, and right). The Review Committee will review only the number of pages specified in the preceding sentence.

(ii) The font must not be smaller than 11 point.

(iii) Do not include any Internet addresses (URLs) that provide information necessary to review the application.

(iv) See Appendix B for instructions on how to mark proprietary application information.

(v) Save the information in a single file named "Project.pdf," and click on "Add Mandatory Other Attachment" to attach.

(vii) The project narrative must include:

(A) *Cover Page.* Cover page should include the name and type of organization, the solicitation title, the project title, the technical area which the project addresses, the funding distribution area which the project addresses, a statement as to whether the project addresses cellulosic biomass, and both the technical and business points of contact for the applicant, showing the names, titles, addresses, telephone and facsimile numbers, and electronic mail addresses. (Note this page does not count against the narrative's specified page limit.)

(B) *Table of Contents.* Table of contents should include page numbers corresponding to the elements outlined in these guidelines. (Note the table of contents does not count against the narrative's specified page limit.)

(C) *Project Objectives.* This section should provide a clear, concise statement of the specific objectives/aims of the proposed project.

(D) *Merit Review Criterion Discussion.* This section should be formatted to address each of the merit review criterion and sub-criterion listed in criterion 1 through 4 below. Provide sufficient information so that reviewers will be able to evaluate the application in accordance with these merit review criteria. DOE and USDA will evaluate and consider only those applications that address separately each of the merit review criterion and sub-criterion. The merit criterion are:

(1) *Criterion 1: Technical Relevance and Merit.* The purpose of this section is to demonstrate the technical relevance and merit of the proposed work. The application will be evaluated based on the extent to which the project, if successfully carried out, will address research, development, and demonstration activities for the biomass Technical Topic Areas as described in this Solicitation. The applicant must address the following topics:

(i) Clearly describe the project objectives and their relevance to the objectives outlined in 7 U.S.C. 8606(b) of the Biomass Research and Development Initiative. Explain how the project objectives serve the needs of the eligible technical areas outlined in the project eligibility section of this Solicitation.

(ii) Specifically address the novelty, innovation, uniqueness, and originality of the proposed work.

(iii) Describe the technical merit of the proposed research, development, or demonstration.

(iv) Address the extent to which the proposed work will demonstrate the current state of knowledge or technology and the extent to which the proposed work will complement or advance the current knowledge or technology for the stated objectives.

(2) *Criterion 2: Technical Approach/Work Plan.* The purpose of this section is to illustrate the technical approach to the proposed work. This section will be evaluated based on the clarity and technical strength of the approach and scientific methodology used to achieve the project objectives, including the plan for each task and subtask, milestones and deliverables. The applicant must address the following topics:

(i) Describe the technical feasibility of the proposed work.

(ii) Describe each activity necessary to complete the project. Address the adequacy and completeness of the proposed tasks. Provide a project schedule in an appropriate level of detail that will demonstrate that the project can be adequately managed. Describe the reasonableness of the schedule. Include a discussion of the likelihood of achieving project objectives through realistic milestones and logical task structure.

(iii) Describe the process for monitoring and evaluating the project's progress and performance. Include a list of quantifiable measures of success and milestones for evaluating progress with regard to key subtasks and deliverables. Identify and discuss the appropriateness of key decision points for mitigating potential problems. Include a discussion

on monitoring and evaluating the project's progress and performance. This discussion should include scientific, technical, and quantifiable technology transfer measures past the period of performance of the grant.

(3) *Criterion 3: Fossil Fuel Displacement, Energy Efficiency, Rural Economic Development, and Environmental Benefits.* The purpose of this section is to explain the overall projected benefits of the proposed work. This section will be evaluated in terms of: Improvements in energy efficiency and economics of the biomass technology, oil or fossil fuel displacement, rural economic development, and environmental benefits. The applicant must address any and all of the following topic areas applicable to the proposed work:

(i) Estimate the benefits of the project in comparison to existing technology or system (*e.g.,* crude oil displacement or energy efficiency gains in product production).

(ii) Provide a comparison of the cost to produce the targeted product(s), fuel(s), and power, or integrated system that includes several technologies versus existing best commercial technology (or system).

(iii) Describe the anticipated energy or economic benefits, including those related to enterprise and community self-sufficiency, rural economic development, job creation, and reduction in imports.

(iv) Discuss the potential for the proposed work to provide sufficient benefits in terms of cost reduction, risk reduction, or performance improvement to justify the cost of the system being investigated.

(v) Discuss the potential for near-term implementation of the proposed system or technology.

(vi) Describe the incorporation of activities and technologies that are protective of the environment.

(vii) Describe the extent to which public safety, environmental concerns, and land sustainability issues in rural areas are addressed.

(4) *Criterion 4: Technical, Management, and Facility Capabilities.* The purpose of this section is to illustrate the technical and management qualifications of all participating organizations and key personnel, including subcontractors and consultants. They will be evaluated with respect to their ability to carry out the proposed effort. The adequacy and appropriateness of the facilities planned for this work will also be considered. This section should address the following topics:

(i) Describe the credentials, capabilities, experience (technical and managerial), performance record, and availability of the applicant to comprehensively address all aspects of the proposed project.

(ii) Discuss the soundness of the project management concept with respect to proposed tasks and organizational structure to achieve project objectives.

(iii) Describe the type, quality, availability, and appropriateness of facilities, equipment, and materials utilized to carry out the proposed work.

(iv) Discuss intellectual property agreements among the project participants.

(v) Explain the level of participation by project participants as evidenced by letter(s) of commitment.

(vi) Describe the extent of beneficial collaboration across industry and academia.

(vii) Discuss any current or recent government contracts, grants, cooperative agreements, or other work by the applicant or participants in this or related fields.

(E) *Relevance and Outcomes/Impacts.* This section should explain the relevance of the effort to the objectives in the Solicitation (as outlined in the Summary) and the expected outcomes and impacts.

(F) *Project Timetable.* This section should outline as a function of time, year by year, all the important activities or phases of the project, including any activities planned beyond the project period. Successful applicants must use this project timetable to report progress.

(G) *Evaluation Phase.* This section must include a plan and quantifiable measures to be used to assess the success of the project.

(H) *SF–424A, "Budget Information—Non-Construction Programs".* You must provide a separate budget for each year of support requested and a cumulative budget for the total project period. Use SF–424A on the Applicant and Recipient Page at *http://grants.pr.doe.gov.* Save the information in a single file named "SF424A.xls," and click on "Add Optional Other Attachment" to attach.

(I) *Budget Justification.* You must justify the costs proposed in each Object Class Category/Cost Classification category (*e.g.,* identify key persons and personnel categories and the estimated costs for each person or category; provide a list of equipment and cost of each item; identify proposed subaward/consultant work and cost of each subaward/consultant; describe purpose of proposed travel, number of travelers and number of travel days; list general categories of supplies and amount for each category; and provide any other information you wish to support your budget). Provide the name of your cognizant/oversight agency, if you have one, and the name and phone number of the individual responsible for negotiating your indirect rates. If cost sharing is required, provide an explanation of the source, nature, amount and availability of any proposed cost sharing. Save this information in a single file named "Budget.pdf," and click on "Add Optional Other Attachment" to attach.

(J) *Subaward Budget.* You must provide a separate budget (*i.e.,* budget for each budget year and a cumulative budget) for each subawardee that is expected to perform work estimated to be more than $100,000 or 50 percent of the total project cost (whichever is less). Use SF–424A or the SF–424C "Budget Information for Construction Programs." These forms are found on the Applicant and Recipient Page at *http://grants.pr.doe.gov.* Save each Subaward budget in a separate file. Use up to 10 letters of the subawardee's name (plus.xls) as the file name (*e.g.,* ucla.xls or energyres.xls), and click on "Add Optional Other Attachment" to attach.

(K) *Certifications/Assurances for use with SF–424.* You must complete and provide the "Certifications and Assurances" on the Applicant and Recipient Page at *http://grants.pr.doe.gov.* Submission of an electronic application through Grants.gov constitutes the submission of a signed document. Type the name of the person responsible for providing the certifications and assurances and save as a pdf file. Do not submit a scanned copy of the form. Name the file "Certs.pdf," and click on "Add Optional Other Attachment" to attach.

(L) *Commitment Letters from Third Parties Contributing to Cost Sharing.* The applicant must have firm funding commitment letters from third parties expected to contribute to cost sharing. At the time the application is submitted, the applicant must identify for each participant providing cost sharing:

(1) The name of the organization;

(2) The proposed dollar amount to be provided;

(3) The amount as a percentage of the total project cost; and

(4) The proposed cost sharing—cash, services, or property. For projects with multiple cost sharing partners, summarize the information in a table format. Provide the information in a single file named "CLTP" and click on "Add Optional Other Attachment" to attach.

(M) *Biographical Sketch.* Provide a biographical sketch for each key person proposed, including subawardees and consultants if they meet the definition of key person. A key person is any individual who contributes in a substantive, measurable way to the execution of the project. Save all biographical sketches in a single file named "bio.pdf" and click on "Add Optional Other Attachment" to attach. The biographical information for each person must not exceed 2 pages when printed on 8.5" by 11" paper with 1 inch margins (top, bottom, left, and right) with font not smaller than 11 point and must include:

(1) *Education and Training.* Undergraduate, graduate and postdoctoral training, provide institution, major/area, degree and year.

(2) *Professional Experience.* Beginning with the current position list, in chronological order, professional and/or academic positions with a brief description.

(3) *Publications.* Provide a list of up to 10 publications most closely related to the proposed project. For each publication, identify the names of all authors (in the same sequence in which they appear in the publication), the article title, book or journal title, volume number, page numbers, year of publication, and Web site address if available electronically. Patents, copyrights and software systems developed may be provided in addition to or substituted for publications.

(4) *Synergistic Activities.* List no more than 5 professional and scholarly activities related to the effort proposed.

(N) *Budget for DOE Federally Funded Research and Development Center (FFRDC), if applicable.* If a DOE FFRDC is to perform any portion of the work, you must provide a DOE Field Work Proposal in accordance with the requirements in DOE Order 412.1 Work Authorization System. These forms are available at *http://grants.pr.doe.gov.* Use up to 10 letters of the FFRDC name (plus .pdf) as the file name (*e.g.,* lanl.pdf or anl.pdf), and click on "Add Attachments" in Field 11 to attach.

(O) *Authorization for Participation of a FFRDC.* If a FFRDC is to perform any portion of the work, you must provide an authorization letter as described in the Applicant Eligibility section of this Solicitation. Provide the information in a single file using up to 6 letters of the FFRDC name (plus "auth.pdf" *e.g.* anlauth.pdf, laslauth.pdf) and click on "Add Optional Other Attachment" to attach.

(P) *SF–LLL,* "*Disclosure of Lobbying Activities*". If applicable, complete SF–LLL. Applicability: If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the grant/cooperative agreement, you must complete and submit SF–LLL, available at *http://www.whitehouse.gov/omb/grants/grants_forms.html.*

V. Application Review Information

Evaluation of Grant Applications

(a) *Initial Review Criteria.* An initial review will not be performed for pre-applications. Prior to a comprehensive merit evaluation for applications, USDA will perform an initial review to determine that (1) The applicant is eligible for an award and meets the minimum cost share requirements; (2) the information required by the Solicitation has been submitted; (3) all mandatory requirements are satisfied; and (4) the proposed project is responsive to the objectives of the Notice.

(b) *Merit Review Criteria.* All timely applications that fulfill the minimum application requirements, as determined by the Initial Review Criteria outlined in paragraph (a) of this section will be eligible for comprehensive evaluation and will undergo the following evaluation by DOE and USDA. The first evaluation includes a joint technical merit review using a scientific peer review process. During the technical merit review, each application will be rated with a numerical score using the technical criteria listed below. Each of the four technical criteria will be rated on a one hundred point numerical scale and weighted accordingly. The total score will be the sum of the weighted scores, with a maximum numerical score of 100 points (plus any policy factor points awarded).

(1) Criterion 1: Technical Relevance and Merit, Weight: 40 percent.

(2) Criterion 2: Technical Approach/Work Plan, Weight: 25 percent.

(3) Criterion 3: Fossil Energy Displacement, Energy Efficiency, Rural Economic Development, and Environmental Benefits, Weight: 20 percent.

(4) Criterion 4: Technical, Management, and Facility Capabilities, Weight: 15 percent.

Technical evaluation of applications will be performed in accordance with 10 CFR 600.13. Members of the Merit Review Committee (hereinafter referred to as "Committee") will be required to protect the confidentiality of any specifically identified trade secrets or privileged or confidential commercial or financial information obtained as a result of their participation in this evaluation. Information contained in the applications shall be treated in accordance with the policies and procedures set forth in 10 CFR 600.15.

In addition, to meet requirements of the EPAct, each recommended application will receive a Program Policy Review by DOE Headquarters and USDA personnel. This will be performed by various Headquarters or USDA personnel depending on the applicable sector of the technology or project proposed. Each Program Policy Review will be conducted by a reviewer not part of the merit review process for that application. The Program Policy Review will be based on the policy factors listed below as well as the policy factors located in the Independent Program Policy Factors section of this Solicitation. The Committee will also individually rate each of the program policy factors listed below as high (which will result in 5 bonus points being added to the applicant's merit score), medium (which will result in 3 bonus points being added to the applicant's merit score), or low (which will result in no bonus points being added to the applicant's merit score) with respect to the extent to which the proposed activity:

(1) Involves a consortia of experts from multiple institutions;

(2) Encourages the integration of disciplines and application of the best technical resources; and

(3) Increases the geographic diversity of demonstration projects.

The maximum number of bonus points available to any grantee will be 15, based on the above cited criteria, as awarded by a policy factor panel made up of Agency personnel. These rating scores will be added to the merit scores and included in the Chairperson Report to the Selection Official.

(c) *Evaluation guidelines.* Each member of the Committee, including ex-officio members shall strictly adhere to the following guidelines:

(1) Committee members shall not discuss the evaluation process with any unauthorized personnel.

(2) Committee members shall not divulge their identities to any applicant.

(3) Committee members shall not contact applicants.

(4) Committee members shall not discuss the Committee proceedings outside of the Committee meeting, even after the selection and award.

(5) Committee members shall not accept any invitations, gratuities (*i.e.,* meals, gifts, favors, etc.), or job offers

from any applicant. If a Committee member is offered any invitations, gratuities, or job offers by or on behalf of any applicant, the member shall immediately report it to the Contracting Officer.

(6) Committee members shall only evaluate information provided by the applicants in the pre-applications and applications and only evaluate against the published criteria. No additional criteria are to be considered by the Committee.

(7) Committee members shall individually assess all pre-applications and applications against the published criteria only and initially rate all applications independently and without consultation between members.

(8) Committee members may contact the Chairperson to obtain clarifications regarding pre-applications and applications.

(d) *Evaluation of pre-applications.*

(1) *Appointments.* The Selection Officials will appoint the Committee of no less than three individuals to review pre-applications. The Committee will be composed of independent experts selected from outside the Departments of Agriculture and Energy as directed by 7 U.S.C. 8606(g)(1)(B). The Committee may consist of multiple panels of no less than three individuals per panel to perform technical evaluations of the pre-applications, depending on the number of pre-applications received. The Committee will not include anyone who, on behalf of the Federal government, provides assistance to the applicant(s); has any decision-making role regarding the application(s); serves as Contracting Officer or performs business management functions for the project; audits the recipient for the project; or, has any other conflict of interest.

(2) *Certification.* Prior to evaluating pre-applications, each Committee member must read and sign a confidentiality and conflict of interest certification and acknowledgement, indicating an understanding of the evaluation and selection plan procedures and requirements. A signed form must be returned to the Contracting Officer prior to performing evaluations on any pre-application. Once signed, strict adherence to the agreement is required. All individuals not directly appointed to the Committee, but involved in the evaluation process, will also sign a confidentiality and conflict of interest certification and acknowledgement form.

(3) *Pre-application review process.* During the Committee meeting, each member shall receive one paper copy of each pre-application to be reviewed by that member. Paper copies will include a control number for tracking purposes. Committee members shall not make copies of any pre-application, and when the Committee's work is completed, all pre-applications shall be returned to the Contracting Officer. A checklist will be used to record return of the pre-applications to the Contracting Officer.

(i) *Initial review.* An initial review will not be performed for pre-applications.

(ii) *Pre-application comprehensive evaluation.* The members of the Committee shall receive pre-applications for review at the Committee. Each committee member shall independently review assigned pre-applications and identify strengths and weaknesses for each criterion. A pre-application must be evaluated even if it does not address the criteria or the order is not maintained. However, it is not the evaluator's responsibility to search for information which is not readily apparent.

After the Committee members have independently reviewed their assigned pre-applications, the Committee panel will convene to discuss the strengths and weaknesses of each application and come to consensus on numerical scores and strengths and weaknesses. If the number of pre-applications warrants the assignment of multiple panels, consensus will be reached and recorded within the panels. Following the panel discussions, the entire Committee will convene and reach consensus on all the pre-applications.

Once the consensus pre-application scores have been assigned to all pre-applications being considered by the Committee, the Committee will recommend a range that establishes a pre-application selection range.

(4) *Chairperson's report—pre-applications.* A Chairperson's Report must be prepared presenting the findings of the Committee. The Report shall include three sections—one to establish the purpose of the report, one to document the compliance review performed and record the merit review process used including any deviations, and one to request action by the selection official. In addition, relevant attachments shall be included, as referenced below.

(a) Section 1 shall include the following:

(1) A brief statement as to the purpose of the Chairperson's Report; and

(2) A brief summary of the number of pre-applications received and the number recommended by the Committee for selection for submission of an application.

(b) Section 2 shall include the following:

(1) The number of Committee members, their names, a statement that all applications were independently evaluated in accordance with the evaluation criteria and certification that all signed confidentiality and acknowledgment forms were executed;

(2) A discussion of the independent review process for all pre-applications;

(3) Details of the Committee and the process followed, including a discussion of any deviations, such as issues with conflict of interest; and

(4) A discussion of the development of consensus scores for each pre-application, the ranking process, the number of pre-applications recommended, and any observations or findings that impacted the decision regarding the recommended selection range. Details of the Committee's process to set the selection range and a reference to the final list of recommended pre-applications should also be included.

(c) Section 3 shall include the following:

(1) A request for action from the Selection Official regarding selection of pre-applications for submission of applications; and

(2) Instructions regarding these actions and subsequent communication of his/her decision to the Contracting Officer (including submittal of the pre-application selection statement, as defined below).

The Selection Official may require the Chairperson or the Committee to present the report orally in addition to the written Chairperson's Report.

In a separate document, the Committee shall provide any recommendations (lessons learned) to the Contracting Officer to improve the Notice or evaluation criteria and plan in the future.

(5) *Pre-application selection statement.* After the Selection Official receives the Chairperson's report, the Selection Official will complete the Selection Statement, which will specify those applicants who will be invited to submit applications. The Selection Official shall then forward the signed Selection Statement to the Contracting Officer.

(6) *Pre-application debriefing methods.* Applicants are entitled to a debriefing. After selections have been made for those applicants that are invited to submit applications, applicants will be notified of the method to be used for debriefings. Debriefings may be provided either orally or in writing and will consist of the consensus strengths and weaknesses

as determined by the Committee reviews regarding the pre-applications. Debriefings for pre-applications will take place at the end of the selection process.

(7) *Appeals.* Appeals will be handled in accordance with 7 CFR part 11 of this title. Any party adversely affected by an Agency decision under this Solicitation may request an appeal from the Director, National Appeals Division, USDA, within 30 days of the adverse decision.

(e) *Evaluation of Application Appointments.*

(1) *Appointments.* The Selection Officials will appoint the Committee of no less than three individuals to review applications. The Committee will be composed of independent experts selected from outside the Departments of Agriculture and Energy as directed by 7 U.S.C. 8606(g)(1)(B). The committee may consist of multiple panels of no less than three individuals per panel to perform technical evaluations of the applications, depending on the number of applications received. DOE and USDA may use outside assistance in accordance with applicable regulations including qualified personnel from other Federal agencies, other Government entities, academia, industry, and DOE or USDA contractors. The Committee may not include anyone who, on behalf of the Federal government, provides assistance to the applicants; has any decision-making role regarding the applications; serves as Contracting Officer or performs business management functions for any selected project; audits the recipient of any selected project; or has any other conflict of interest.

(2) *Certification.* Prior to evaluating Applications, each evaluator must read, understand and sign a confidentiality and conflict of interest certification and acknowledgement, indicating an understanding of the Evaluation and Selection Plan procedures and requirements. A signed form must be returned to the Contracting Officer prior to performing evaluations on any Application. Once signed, strict adherence to the agreement is required. All individuals not directly appointed to the Committee, but involved in the evaluation process will also sign a confidentiality and conflict of interest certification and acknowledgement form.

(3) *Application Review Process.* Each evaluator will be assigned Applications for independent review prior to the convening of the Committee. A copy of each Application shall be made available to each evaluator for independent review. In addition, each evaluator shall receive an explanation of the merit review process, a copy of the criteria, and an explanation of scoring. Any printed or electronic copies of Applications shall be returned to the Chairperson, Contracting Officer or destroyed following the convening of the Committee.

(i) *Initial Review.* Prior to a comprehensive evaluation, the Agency will perform an initial review to determine the following:

(1) The applicant is eligible for an award,

(2) The information required by the Notice has been submitted, and

(3) All mandatory requirements of the Notice have been satisfied. If an applicant or application fails to meet these requirements, the applicant will be deemed non-responsive and eliminated from further review.

(ii) *Comprehensive Evaluation.* All timely applications that have been determined, through the Initial Review, to meet the minimum application qualifications will be eligible for comprehensive evaluation. A listing of the factors that are to be considered in the comprehensive evaluation are specified in the Merit Review Criteria section of this Solicitation.

(A) *Independent review.* The Committee members shall be notified of applications assigned to them to review by the Chairperson. Each Committee member shall independently review each application against the published criteria and provide written documentation of the strengths and weaknesses for each criterion. With the completion of the independent review, each evaluator shall be prepared to discuss each application's strengths and weaknesses during the Committee meeting.

An application must be evaluated even if an application does not address the criteria or follow the prescribed format. However, it is not the Committee members' responsibility to search for information which is not readily apparent. Committee members are expected to use their best judgment in evaluating the application.

(B) *Committee review.* The Committee will meet and discuss in detail the strengths and weaknesses of each criterion within each application and will provide written documentation of their consensus strengths and weaknesses. The Committee will then develop consensus scores for each criterion based on their deliberations. Once the final scores have been assigned, the Committee will propose a range of scores that shall constitute applications recommended for selection for negotiation of award. This selection range shall determine the order in which applications will be recommended for selection.

(C) *Program Policy Review.* See Independent Program Policy Factors in this section of the Solicitation for further details.

(4) *Chairperson's Report—Applications.* A Chairperson's Report must be prepared presenting the findings of the Committee. The Report shall include four sections—one to establish the purpose of the report, one to document the compliance review performed, one to record the merit review process used and any deviations, and one to request action by the selection official. In addition, relevant attachments shall be included, as referenced below.

(a) Section 1 shall include the following:

(1) A brief statement as to the purpose of the Chairperson's Report; and

(2) A brief summary of the number of applications received and the number recommended by the Committee for selection for negotiation of award.

(b) Section 2 shall include the following:

(1) A list of applications rejected in the initial compliance review, if any; and

(2) A list of the reasons why they were rejected and not comprehensively reviewed.

(c) Section 3 shall include the following:

(1) The number of Committee members, their names, a statement that all applications were independently evaluated in accordance with the evaluation criteria; and certification that all signed Confidentiality and Acknowledgment Forms have been executed;

(2) A discussion of the independent review process for all applications;

(3) Details of the Committee meeting and the process followed, including a discussion of any deviations, such as issues with conflict of interest; and

(4) A discussion of the development of consensus scores for each application, the ranking process, the number of applications recommended, and any observations or findings that impacted the decision regarding the recommended selection range.

(5) Details of the Committee's process to set the selection range and a reference to the final list of recommended applications.

(d) Section 4 shall include the following:

(1) A request for action from the Selection Official regarding application of the program policy factors and selection of applications for negotiation of award; and

(2) Instructions regarding these actions and subsequent communication of his/her decision to the Contracting Officer.

The Selection Official may require the Chairperson or the Committee to present the report orally in addition to the written Chairperson's Report.

In a separate document, the Committee shall provide any recommendations (lessons learned) to the Contracting Officer to improve the Notice, or Evaluation and Selection Plan in the future.

(5) *Independent Program Policy Factors.* These policy factors are in addition to the policy factors listed in Merit Review Criteria section of this Solicitation and are unique to each Agency.

For the DOE award selection process, an independent program policy factor review will occur. After the DOE Selection Official receives the Chairperson's report, the DOE Selection Official shall consider program policy factors for the purpose of maximizing the effectiveness of available government funding. The program policy factors will not be point scored, but the DOE Selection Official will consider them in making the selections for negotiation of award. USDA award selections will be based solely on the rank and recommendations provided by the Committee with the exception that two or more applicants achieve the same merit score in any given technical topic area and the level of funding is not sufficient to fund all such like scored applications

For proposals selected for award by DOE, program policy factors will include:

(a) Balance of the overall portfolio of DOE investments in biomass research and development.

(b) Level of cost sharing above the minimum requirement.

For proposals selected for award by USDA, additional program policy factors will include:

(c) Level of cost sharing above the minimum requirement.

(6) *Application Selection Statement.* The Selection Official will complete the Selection Statement. The Selection Statement shall specify a ranked order of applications recommended by the Committee for negotiation of award and applications not selected. For purposes of DOE, selections of any applications not in the Committee's selection range will require written approval from the Assistant Secretary of Energy Efficiency and Renewable Energy.

(7) *Debriefing of Unsuccessful Applicants.* Unsuccessful applicants are entitled to a debriefing. After selections for negotiation for award have been made, those applicants not selected will be advised, in writing, that they were not selected. Debriefings will consist of either the findings of the Initial Review as determined by USDA or the consensus strengths and weaknesses as determined by the Committee. The debrief letters will not include the consensus score of the application or the relative standing of the application in comparison to all other applications. The letters forwarding this information will be signed by the Committee Chairperson.

(8) *Appeals.* Appeals will be handled in accordance with 7 CFR part 11 of this title. Any party adversely affected by an Agency decision under this Solicitation may request an appeal determination from the Director, National Appeals Division, USDA, within 30 days of the adverse decision.

(9) *Additional Information.* Committee members may contact the Chairperson to obtain clarification regarding a pre-application or application. Committee members shall not contact the applicant.

(10) *Non-Discrimination Statement.* USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call (866) 632–9992 (voice), or (202) 401–0216 (TDD). "USDA is an equal opportunity provider, employer, and lender."

VI. Award Administration

(a) *Award Notices.*

(1) *Notice of selection.* DOE and USDA will notify applicants selected for award. This notice of selection is not an authorization to begin performance. Organizations whose applications have not been selected will be advised as promptly as possible. This notice will explain why the application was not selected.

(2) *Notice of award.* A notice of financial assistance award issued by the Contracting Officer is the authorizing award document.

(b) *Administrative and national policy requirements.*

(1) *Administrative requirements.* The administrative requirements and national policy requirements (e.g., "generally applicable requirements") for Federal agency grants and cooperative agreements are governed by the awarding agency's regulations (10 CFR part 600 for DOE (See: *http://ecfr.gpoaccess.gov*); 7 CFR parts 3015, 3016, and 3019 for USDA), except for DOE grants made to FDP institutions. The FDP terms and conditions and DOE FDP agency specific terms and conditions are located on the National Science Foundation Web site at *http://www.nsf.gov/awards/managing/fed_dem_part.jsp.*

(2) *Special terms and conditions and national policy requirements.* For DOE, the special terms and conditions for use in most grants and cooperative agreements are located at *http://grants.pr.doe.gov.* The national policy assurances to be incorporated as award terms are located at *http://grants.pr.doe.gov.*

(i) *Intellectual Property Provisions.* Financial assistance intellectual property provisions for USDA and DOE will be specified in the award documents for each project. The standard DOE financial assistance intellectual property provisions applicable to the various types of recipients are located at *http://www.gc.doe.gov/techtrans/sipp_matrix.html.*

(ii) *Statement of Substantial Involvement.* Either a grant or, for DOE, cooperative agreement may be awarded under this program Solicitation. If the award is a cooperative agreement, the DOE will negotiate a Statement of Substantial Involvement prior to award.

Grantee Reporting Requirements

All award recipients are required to provide a concise narrative report to the Agency describing the status of work on each Project on a semi-annual basis, or more frequently for cause. It is estimated complete reports will be 2–3 pages. The information included should reflect quantifiable results that can be used to evaluate and measure progress towards Project success, based on the objectives, timeline, and Project scope of the Agency approved application provided by the Grantee.

These reports must include the following information:

(a) Statement of quantifiable progress toward Project objective(s) achieved to date,

(b) Problems, obstacles, new developments or market/industry/research changes that effected or may affect the expected outcomes, completion date, cost or scope of the Project,

(c) Recommended changes to the work plan.

All award recipients are required to provide a concise final narrative report to the Agency. It is estimated complete final reports will be at least five pages. The information included should reflect quantifiable results that can be used to evaluate and measure Project success, based on the objectives and Project scope of the Agency approved application provided by the Grantee.

This final report must include the following information:

(a) Statement of quantifiable progress toward Project objective(s),

(b) Problems, obstacles, new developments or market/industry/research changes that had an effect on the expected outcomes, completion date, cost or scope of the Project,

(c) Description of the estimated impact of the Project,

(d) Description of the estimated impact on the development of the principal discipline(s) of the Project,

(e) Description of the estimated impact on other disciplines,

(f) Description of the estimated impact on human resource,

(g) Description of the estimated impact on physical, institutional, and information resources that form infrastructure,

(h) Description of the estimated impact on society,

(i) Description of the estimated impact on technology transfer,

(j) Estimate of the economic impact of the Project following commercialization, and

(k) Estimate of the need and cost to retire existing infrastructure upon commercialization.

Appendix A—Detailed Descriptions of Technical Areas

1. Feedstock Production through the development of crops and cropping systems relevant to production of raw materials for conversion to biobased fuels and biobased products, including:

- Development of advanced and dedicated crops with desired features, including enhanced productivity, broader site range, low requirements for chemical inputs, and enhanced processing;
- Advanced crop production methods to achieve the features described in paragraph 1 above;
- Feedstock harvest, handling, transport, and storage; and
- Strategies for integrating feedstock production into existing managed land.

Discussion and Program Relevance

Proposals are invited for research, development, and demonstration projects that promote feedstock production through the development of crops and cropping systems relevant to production of raw materials for conversion to biobased fuels and biobased products. Biomass feedstocks of interest include agricultural and forest resources. Biomass feedstock development and production efforts should focus on improving quality, reducing raw material costs, enhancing the productivity, and ensuring agronomic and silvicultural methods for sustainable production. This may include development of advanced and dedicated crops with desired features, including enhanced productivity, broader site range, low chemical input requirements and enhanced processing.

Projects of interest include, but are not limited to, those that develop appropriate agriculture and forest production/management technologies and systems; identify and evaluate innovative equipment designs and systems to produce, harvest, recover, and transport biomass; or develop tools which land managers and community developers can use to evaluate the technical and economic viability of biomass production systems or to manage these systems more efficiently. Tools should integrate management, harvesting, and processing technologies and methods with economic analyses of utilization options for bioenergy, biofuels, and biobased products.

Desired outcomes:

- Scientific and technological breakthroughs to overcome production barriers and enhance economic viability.
- Substantive development and demonstration of known and adapted technologies for effective and economical biomass feedstock production and use.
- Comprehensive descriptive and analytical understanding of methods and costs of management, collection, handling, primary processing, and transportation of primary feedstocks.
- Sustainable production and harvesting systems and methods that protect or enhance the site and surrounding landscape, including the long-term soil productivity, water, and other ecological and environmental resources.
- Guidelines, tools, and management systems that provide a basis for decisions on land use, production, and technology application for integrated resource management and biomass use.
- Tools that aid land managers and community developers in evaluating the technical and economic viability of biomass production, markets, and revenue streams for local areas.

2. Overcoming Recalcitrance of Cellulosic Biomass through developing technologies for converting cellulosic biomass into intermediates that can subsequently be converted into biobased fuels and biobased products, including:

- Enzyme-based or other novel hydrolytic approaches that improve the yields of hemicellulose (*e.g.* xylan) to sugars compared to pretreatment methods alone, or
- Conditioning methods that improve the quality of sugar streams from pretreated materials for fermentation to ethanol; and
- Thermochemical approaches, including gasification and pyrolysis.

Discussion and Program Relevance

Proposals are invited that address overcoming the recalcitrance of biomass by developing enzyme-based (non-cellulase) or other fractionation approaches to improve hemicellulose to sugar yields, or conditioning methods to improve the quality of pretreated streams, that will move the program toward meeting its sugar cost target goal delineated in the "Desired outcome" section below. Ultimately, the DOE program wishes to identify the pretreatment, hydrolysis and conditioning combinations that will lead to high yield, high quality hemicellulose sugars (*i.e.* xylose) while maintaining (or improving) the cellulose derived sugar (glucose) yield and quality in the stream going to a fermentation process.

Cellulose is the primary carbohydrate in biomass; however cellulose conversion alone is not sufficient to provide an economic return—hemicellulose, primarily xylan, must be converted at high yields as well. It is likely that a combination of pretreatment and enzymatic (non-cellulase) hydrolysis is the most economical method of converting the hemicellulose, and processes that combine these in a feasible and economical way to produce high yields of xylose are sought.

There are a number of pretreatment methods being developed and evaluated including dilute acid, ammonia fiber explosion (AFEX), ammonia percolation, lime, hot water (as is, or with pH control to maintain neutral pH), and organosolv-based processes. These pretreatments each produce substrates that differ in composition and in the levels of conditioning or detoxification required to make the sugars derived from these materials fermentable by microorganisms. Proposals should identify the basic mechanisms behind conditioning processes and from that knowledge, the methods that result in minimal sugar degradation while removing known inhibitors to ethanologens such as acetic acid and phenolic compounds.

Proposals are also invited that will address the recalcitrance of lignocellulosic biomass and develop conversion techniques and processes for thermochemical approaches, including gasification and pyrolysis, which move the program toward meeting its syngas quality and cost target goal delineated in the "Desired outcome" section below. Proposals should address cost-competitive, consolidated cleanup and conditioning processes for a stand-alone biomass gasification-mixed alcohol process to: minimize the number of unit operations: achieve syngas quality required for fuel synthesis; reduce syngas impurities; and optimize performance and lifetime of synthesis catalysts for fuels conversion. Gas cleanup is a general term for removing the unwanted impurities from biomass gasification product gas and generally involves an integrated, multi-step approach to remove or eliminate tars, acid gases, ammonia, alkali metals, and particulates.

Proposals should identify or develop catalyst systems that reform tars with greater tolerance to sulfur gases to achieve synthesis yields of ~90 gal fuel/ton biomass. Comparable R&D plans and technical targets are being developed for biofuels production from pyrolysis processes. Pyrolysis efforts should focus on improving stability and long-term storability and reducing the Total Acid Number (TAN) of bio-oils. Improving the yields of converting bio-oils to fungible fuels is another R&D area of importance.

Desired outcome: Development of process(es) or process combinations that improve the efficiency of biomass conversion by improving the xylose yield or overall quality of the sugar intermediate in order to achieve the cost of a mixed, dilute sugars stream suitable for fermentation to ethanol in a mature biochemical plant of $0.06–0.07/lb sugars by the year 2012 and to $0.03–$0.04/lb by the year 2030.

Identification or development of process(es) or process combinations that overcome the recalcitrance of cellulosic biomass by developing conversion techniques and processes for thermochemical approaches, including gasification and pyrolysis, that produce a syngas with a quality of 3 volume percent or less methane, 10 ppm or less benzene, 1 ppm or less hydrogen sulfide, 10 ppm or less ammonia, 10 ppb or less hydrogen chloride and 0.1 grams or less of heavy tars per Normal cubic meter and at a cost of $5.25 per million BTU or less.

3. Product Diversification through technologies relevant to production of a range of biobased products (including chemicals, animal feeds, and co-generated power) that eventually can increase the feasibility of fuel production in a biorefinery, including:

- Catalytic processing, including thermochemical fuel production;
- Metabolic engineering, enzyme engineering, and fermentation systems for biological production of desired products or cogeneration of power;
- Product recovery;
- Power production technologies; and
- Integration into existing biomass processing facilities, including starch ethanol plants, paper mills, and power plants.

Discussion and Program Relevance

Proposals are invited for research, development, and demonstrations of technologies that would result in product diversification through technologies relevant to production of a range of biobased products (including chemicals, animal feeds and co-generated power) that eventually can increase the feasibility of fuel production in a biorefinery, including those that also:

- Enable the conversion, via biological, thermal, catalytic or chemical means, of agricultural and forest biomass feedstocks into biobased products.
- Improve the performance or commercial viability of biobased products and co-products.
- Improve the potential for developing rural based processing and manufacturing of biobased products.
- Demonstrate commercial relevance of the technology, its expected marketability, and its potential commercial viability for processing and manufacturing biobased products.

Desired outcomes:

- Develop new technologies that would significantly decrease the cost and improve the energy efficiency of converting biomass into sugars for subsequent conversion to marketable fuels, chemicals or polymers.
- Develop new technologies that would significantly decrease the cost and improve the energy efficiency of converting lignocellulosic biomass into syngas.
- Develop new technologies that would significantly decrease the cost and improve the energy efficiency of converting syngas into marketable fuels or chemicals.
- Develop new technologies that would significantly decrease the cost and improve the energy efficiency of pyrolyzing biomass into oils that could be used for (or converted into) marketable fuels or chemicals.
- Develop new technologies that would significantly decrease the cost and improve the energy efficiency of producing methane or hydrogen from biomass.
- Develop new technologies that would significantly improve the performance or decrease the cost and improve the energy efficiency of producing new, marketable products from biomass.
- Develop new technologies that would significantly improve the performance or decrease the cost and improve the energy efficiency of producing products from the hemicellulose or lignin fractions of biomass.
- Develop new technologies for converting bio-based fats and oils to marketable fuels, chemicals or polymers.

4. Analysis that Provides Strategic Guidance for the application of biomass technologies in accordance with realization of improved sustainability and environmental quality, cost effectiveness, security, and rural economic development, usually featuring system-wide approaches.

Appendix B—Proprietary and Intellectual Property Information

Proprietary Application Information

Patentable ideas, trade secrets, proprietary or confidential commercial or financial information, disclosure of which may harm the applicant, should be included in an application only when such information is necessary to convey an understanding of the proposed project. The use and disclosure of such data may be restricted, provided the applicant includes the following legend on the first page of the project narrative and specifies the pages of the application which are to be restricted:

The data contained in pages _____ of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE or USDA shall have the right to use or disclose the data herein to the extent provided in the award. This restriction does not limit the government's right to use or disclose data obtained without restriction from any source, including the applicant.

To protect such data, each line or paragraph on the pages containing such data must be specifically identified and marked with a legend similar to the following:

The following contains proprietary information that (name of applicant) requests not be released to persons outside the Government, except for purposes of review and evaluation.

Intellectual Property Developed Under this Program

Patent rights. The government will have certain statutory rights in an invention that is conceived or first actually reduced to practice under a DOE or USDA award. Specific regulations of each agency will be identified in the award documents for each project.

For DOE awards, 42 U.S.C. 5908 provides that title to such inventions vests in the United States, except where 35 U.S.C. 202 provides otherwise for nonprofit organizations or small business firms. However, the Secretary of Energy may waive all or any part of the rights of the United States subject to certain conditions. (See "Notice of right to request patent waiver" below.)

Rights in technical data. Normally, the government has unlimited rights in technical data created under a Federal Agency agreement. Delivery or third party licensing of proprietary software or data developed solely at private expense will not normally be required except as specifically negotiated in a particular agreement to satisfy the Government's own needs or to insure the commercialization of technology developed under a Government agreement. The rights in data applicable to the various types of DOE financial assistance recipients are contained in 10 CFR part 600 and for USDA in 7 CFR parts 3015, 3016, and 3019.

Special protected data statutes. For DOE, this program is covered by a special protected data statute. The provisions of the statute provide for the protection from public disclosure, for a period of up to five (5) years from the development of the information, of data that would be trade secret, or commercial or financial information that is privileged or confidential, if the information had been obtained from a non-Federal party. Generally, the provision entitled, Rights in Data—Programs Covered Under Special Protected Data Statutes, (10 CFR 600, Appendix A to Subpart D), would apply to an award made under this announcement. This provision will identify data or categories of data first produced in the performance of the award that will be made available to the public, notwithstanding the statutory authority to withhold data from public dissemination, and will also identify data that will be recognized by the parties as protected data.

Notice of right to request patent waiver. For DOE, applicants may request a waiver of all or any part of the rights of the United States in inventions conceived or first actually reduced to practice in performance of an agreement as a result of this announcement, in advance of or within 30 days after the effective date of the award. Even if such advance waiver is not requested or the

request is denied, the recipient will have a continuing right under the award to request a waiver of the rights of the United States in identified inventions, *i.e.*, individual inventions conceived or first actually reduced to practice in performance of the award. Any patent waiver that may be granted is subject to certain terms and conditions in 10 CFR part 784.

Domestic small businesses and domestic nonprofit organizations will receive the patent rights clause at 37 CFR 401.14, *i.e.*, the implementation of the Bayh-Dole Act. This clause permits domestic small business and domestic nonprofit organizations to retain title to subject inventions. Therefore, small businesses and nonprofit organizations do not need to request a waiver.

Dated: June 5, 2007.

Jackie J. Gleason,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 07–2865 Filed 6–8–07; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Section 538 Multi-Family Housing Guaranteed Rural Rental Housing Program (GRRHP) Demonstration Program for Fiscal Year 2007

AGENCY: Rural Housing Service, USDA.

ACTION: Notice of Funds Availability.

SUMMARY: Through this Notice of Funds Availability (NOFA), the Agency announces the implementation of a demonstration program under the section 538 Guaranteed Rural Rental Housing Program (GRRHP) pursuant to 7 CFR 3565.4 for Fiscal Year (FY) 2007 and 7 CFR 3565.17 Demonstration programs. The Demonstration Program's purpose is to test the viability and efficacy of the concept of a continuous loan note guarantee through the construction and permanent loan financing phases of a project. Those applications that meet the Demonstration Program's qualifying criteria and are selected to participate will be offered one loan note guarantee upon closing of the construction loan that will be in effect throughout both of the project's construction and permanent phases without interruption.

To be considered for participation in the Demonstration Program, in addition to responding to this NOFA, a Lender must have first submitted its application under either the GRRHP's 2007 Notice at 72 FR 8339 (Feb. 26, 2007) or the GRRHP's 2006 Notice at 71 FR 4559 (Jan. 27, 2006). Furthermore, the application to be considered must have been obligated from October 1, 2006 to July 31, 2007.

The funding for the Demonstration Program will be approximately $10 million. Expenses incurred in developing applications will be at the applicant's risk. The following paragraphs outline the timeframes, eligibility requirements, lender responsibilities, and the overall response and application processes.

Eligible Lenders wishing to have their FY 2007 obligations considered for the Demonstration Program must send a signed request on its letterhead with the proposed project details as outlined in the "Demonstration Program Response Submission Address" section of this NOFA.

Demonstration Program Guidelines: The following guidelines are being provided to facilitate a structured implementation of the program:

1. Demonstration guarantee. The Demonstration guarantee is a guarantee that will be offered to those applications that apply for and meet the 2007 Demonstration NOFA's demonstration program's qualifying criteria. The Demonstration guarantee will consist of one loan note guarantee upon closing of the construction loan that will be in effect throughout both of the project's construction and permanent financing phases without interruption.

2. Upon approval of an application from an approved lender, the Agency will commit to providing a demonstration guarantee for the construction and permanent financing phases of the project, subject to the availability of funds.

3. Guarantee percentage and payment. Both construction loan advances and permanent loans are eligible for a guaranty subject to the following limitations:

Construction loan advances and permanent loans. The Agency may guarantee a construction contract which has credit enhancements to protect the Government's interest. The Agency can guarantee the "construction and permanent" financing phases of a project. The Agency cannot, however, guarantee only the "construction" financing phase of a project. Guarantees under the demonstration guarantee will cover construction loan advances and the subsequent permanent loan. A demonstration guarantee requires an additional operating reserve equal to 2% of the appraised value of the project or total development costs, whichever is greater, to be set aside prior to closing the construction loan. This cash contribution is an additional amount, over and above the required initial operating and maintenance contribution. The maximum guarantee of construction advances will not at any time exceed the lesser of 90 percent of the amount of principal and interest up to default advanced for eligible uses of loan proceeds or 90 percent of the original principal amount and interest up to default of a loan. Penalties incurred as a result of default are not covered by the guarantee. The Agency may provide a lesser guarantee based upon its evaluation of the credit quality of the loan.

4. A lender making a construction loan must demonstrate an ability to originate and service construction loans.

5. Guarantee during construction. The Agency will issue a demonstration guarantee only to an approved lender.

6. Demonstration guarantee program compliance requirement. For a demonstration guarantee, the following items will have to be submitted in order to remain compliant with program requirements. The items must be submitted within the timeframe stipulated by the Agency and must also be approved by the Agency:

(1) A certificate of substantial completion;

(2) A certificate of occupancy or similar evidence of local approval;

(3) A final cost certification in a form acceptable to the Agency;

(4) A complete copy of the permanent loan closing docket; and

(5) Necessary information to complete an updated necessary assistance review by the Agency.

The Agency may declare the loan in default if the Lender fails to comply with the demonstration guarantee program guidelines. The Agency may also declare the loan in default if the Agency's final inspection is not satisfactory. To facilitate the implementation of the program, certain program forms may be addended to include relevant Demonstration Program requirements.

The selected applicants will be subject to the Demonstration Program guidelines in this NOFA, and GRRHP's controlling statute, regulations, and handbook as amended. The GRRHP operates under the Housing Act of 1949 and regulations at 7 CFR part 3565. The GRRHP Origination and Servicing Handbook (HB–1–3565) is available to provide lenders and the general public with guidance on program administration. HB–1–3565, which contains a copy of 7 CFR part 3565 in Appendix 1, can be found at the Rural Development Instructions Web site address *http://www.rurdev.usda.gov/regs/hblist.html#hbw6.*

Demonstration Program Eligibility: Applications that meet the following criteria will be eligible for consideration

to be selected into the Demonstration Program:

1. The project must have been awarded tax credits.

2. The project must have a loan to cost (LTC) ratio equal to or lower than 50%.

3. The Lender must have submitted [for this project] a loan guarantee application under either the GRRHP's 2007 Notice at 72 FR 8339 (Feb. 26, 2007) or the GRRHP's 2006 Notice at 71 FR 4559 (Jan. 27, 2006). Additionally, the application to be considered must have been obligated from October 1, 2006 to July 31, 2007.

4. The Lender must have submitted a timely response to this NOFA in accordance with the "Demonstration Program Response Submission Address" section of this NOFA.

Demonstration Program Selection Process: Selections from qualified obligations that have requested consideration will be made based on their interest credit scores, with the highest scoring obligations, being selected first, until all available Demonstration Program funds are allocated. In the event of a tie, priority will be given to the project that: is in the smaller rural community, and in case of a subsequent tie has the lowest LTC ratio.

Selections into the Demonstration Program will be made on August 14, 2007, from the qualified pool of applications that were obligated from October 1, 2006 to July 31, 2007. In the event there are not enough qualified requests for selection into the Demonstration Program to utilize all the available Demonstration Program set-aside funds of approximately $10 million, then the selection process for any remaining funds will be conducted again on September 11, 2007, and will include all applications obligated from October 1, 2006 to August 31, 2007. All applicants will be notified of the selection results no later than 15 business days from the date of selection.

Demonstration Program Response Submission Address: Eligible lenders wishing to have their obligated applications considered for selection into the Demonstration Program must submit a signed request (not to exceed one page) on its letterhead that includes the following information:

1. Developer's Name.

2. Borrower's Name.

3. Project's Name.

4. Project's Address (City and State).

5. Project Type (Family, Senior, or Mixed).

6. Project's Total Units.

7. Project's Total Development Cost (TDC).

8. Amount of 538 Loan Guarantee.

9. Amount of Tax Credits Awarded.

10. Amount and Source of Other Financing.

11. Loan to Cost (LTC) %.

12. Area Population.

13. Date obligated or date of Conditional Commitment.

Send the Demonstration Program Response Submission Letter with all of the information listed above, along with a copy of the State Office's "Proceed with Application/NOFA Response Selection" letter and a copy of the tax credit award notification to: C.B. Alonso, Senior Loan Specialist, Multi-Family Housing Processing Division, Guaranteed Rural Rental Housing Program, U.S. Department of Agriculture, South Agriculture Building, Room 1271, Stop 0781, 1400 Independence Avenue, SW., Washington, DC 20250–0781.

Requests may also be faxed to 202–205–5066 or sent by e-mail (signed PDF copies of the above submissions) to *cb.alonso@wdc.usda.gov.* Eligible lenders mailing a request must provide sufficient time to permit delivery to the SUBMISSION ADDRESS on or before August 13, 2007. Acceptance by a U.S. Post Office or private mailer does not constitute delivery. Postage due responses and applications will not be accepted.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, marital status or family status (not all prohibited basis apply to all programs). Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact the USDA's Target Center at (202) 720–2600 (voice or TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326–W, Whitten Building, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call toll free (866) 632–9992 (Voice). TDD users can contact USDA through local relay (800) 720–6382 (TDD) or (866) 377–8642 (relay voice users). USDA is an equal opportunity provider and employer.

Dated: June 4, 2007.

David J. Villano,

Acting Administrator, Rural Housing Service.

[FR Doc. E7–11169 Filed 6–8–07; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors from the People's Republic of China: Extension of Time Limit for the Final Results of the 2005–2006 Administrative and New Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 11, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Moats, 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) 482–5047.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 2007, the Department of Commerce (the "Department") published the preliminary results of the 2005–2006 administrative and new shipper reviews and partial rescission of the 2005–2006 administrative review of the antidumping order on brake rotors from the People's Republic of China ("PRC") for the April 1, 2005, through March 31, 2006, period. *See Brake Rotors from the People's Republic of China: Preliminary Results of the 2005–2006 Administrative and New Shipper Reviews and Partial Rescission of the 2005–2006 Administrative Review*, 72 FR 7405 (February 15, 2007). The final results of the review are currently due on June 15, 2007. On March 5, 2007, Longkou Haimeng Machinery Co., Ltd., Qingdao Meita Automotive Industry Co., Ltd., Yantai Winhere Auto–Part Manufacturing Co., Ltd, Laizhou Auto Brake Equipment Company Ltd., Laizhou Hongda Auto Replacement Parts Co., Ltd., and Laizhou City Luqi Machinery Co., Ltd., requested a 28-day extension of time to submit publicly available information to value the factors of production. On March 6, 2007, the Department issued a letter to all interested parties granting the requested 28-day extension of time to submit publicly available information to value the factors of production. In that letter, the Department stated that it was postponing the briefing schedule until further notice pending the release of the verification report of Shandong Huanri Group Co., Ltd., Shandong Huanri Group General Co., and Laizhou Huanri Automobile Parts Co., Ltd. (collectively "Huanri"). From March 20, 2007,

through March 22, 2007, the Department verified the Section A and quantity and value questionnaire response of Huanri in Panjia Village, Laizhou, PRC. On May 4, 2007, the Department issued the verification report for Huanri. *See* Memorandum to the File through Wendy J. Frankel, Office Director, and Robert Bolling, Program Manager, From Eugene Degnan, Senior International Trade Analyst, and Paul Stolz, International Trade Compliance Analyst, entitled, "Antidumping Duty Administrative Review of Brake Rotors from the People's Republic of China: Verification of Section A and Quantity and Value Response of Shandong Huanri Group Co., Ltd., Laizhou Huanri Automobile Parts Co., Ltd., and Shandong Huanri Group General Co." On May 10, 2007, the Department set the deadlines for submission of case and rebuttal briefs as May 21, 2007, and May 29, 2007, respectively. On May 10, 2007, the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers ("the Petitioner"), requested a 5-day extension of time to submit rebuttal briefs. On May 15, 2007, the Department granted the Petitioner's request and extended the deadline for submission of rebuttal briefs to June 5, 2007, for all parties.

Extension of Time Limit of Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930 (the "Act") requires the Department to issue the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete this review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend the deadline for the final results to a maximum of 180 days after the publication date of the preliminary results.

The Department determines that completion of the final results of these reviews within the statutory time period is not practicable. The Department requires additional time to analyze comments regarding the 19 respondents, including 15 separate–rate respondents and three mandatory respondents in the administrative review and one respondent in the new shipper review. Therefore, given the number and complexity of issues and companies in this case, and in accordance with sections 751(a)(3)(A) and 751(a)(2)(B)(iv) of the Act, we are extending the time period for issuing the final results of review by 46 days to 166 days after the publication of the preliminary results. Therefore, the final results will be due no later than July 31, 2007.

This notice is published pursuant to sections 751(a)(3)(A) and 777(i) of the Act.

Dated: June 5, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–11251 Filed 6–8–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–865]

Preliminary Rescission of Antidumping Duty Administrative Review: Certain Hot–Rolled Carbon Steel Flat Products from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 11, 2007.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Christopher Riker, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3207 and (202) 482–3441, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 2006, the Department of Commerce ("Department") published a notice of opportunity to request an administrative review of the antidumping duty order on certain hot–rolled carbon steel flat products from the People's Republic of China ("PRC") for the period of review ("POR") November 1, 2005, through October 31, 2006. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 64240 (November 1, 2006). On November 30, 2006, United States Steel ("Petitioner"), a domestic producer of certain hot–rolled carbon steel flat products, requested that the Department conduct an administrative review of Anshan Iron & Steel Group Corp., Angang Group International Trade Corporation, Angang New Iron and Steel Co., Angang New Steel Co., Ltd., and Angang Group Hong Kong Co., Ltd. (collectively "Angang") and Baosteel Group Corporation, Shanghai Baosteel International Economic & Trading Co., Ltd., and Baoshan Iron and Steel Co., Ltd. (collectively "Baosteel"). On December 27, 2006, the Department published a notice of initiation of an antidumping duty administrative review on certain hot–rolled carbon steel flat products from the PRC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part* ("*Notice of Initiation*"), 71 FR 77720 (December 27, 2006).

On January 4, 2007, the Department issued a quantity and value questionnaire to Angang and Baosteel. On January 18, 2007, Angang submitted a letter stating that Angang had no sales, shipments, or entries of subject merchandise to the United States during the POR. Also on January 18, 2007, Baosteel submitted a letter stating that it had no sales of subject merchandise to the United States during the POR.

On February 7, 2007, Petitioner submitted information on the record of this review, in the form of Port Import Export Reporting Service ("PIERS") data, which is a subscription service based upon shipping manifests, alleging that there were entries made of subject merchandise into the United States during the POR by Angang and Baosteel. On February 13, 2007, the Department requested that Angang and Baosteel provide comments on the PIERS data placed on the record by Petitioner. Also, on February 13, 2007, the Department requested that Petitioner provide the Harmonized Tariff Codes for the data it provided from PIERS and explain how the information it placed on the record could be tied to actual entry documentation from U.S. Customs and Border Protection ("CBP"). Baosteel submitted comments on February 16, 2007, and on March 6, 2007, again stating that it had no shipments, sales, or entries of subject merchandise during the POR to the United States, and provided supporting sales documentation for the entries listed in the PIERS data to demonstrate that those entries were not subject merchandise. On February 20, 2007, Angang responded to the Department's February 13, 2007, questionnaire, and stated again that it had no shipments, sales, or entries of subject merchandise during the POR, and alleged that the PIERS data placed on the record by Petitioner was not reflective of the actual material that was shipped by Angang. Also, on February 20, 2007, Petitioner submitted a response to the Department's February 13, 2007, questionnaire, and placed a revised version of the PIERS data on the record which contained the tariff code numbers.

The Department conducted a CBP data query for possible entries of subject merchandise into the United States during the POR by Angang and Baosteel.

The data query response indicated that there were no shipments by either Angang or Baosteel during the POR.

On January 16, 2007, we sent inquiries to CBP requesting notification as to whether it had information indicating that there were shipments of subject merchandise into the United States during the POR by Angang or Baosteel. We received responses from several CBP ports indicating that certain shipments by Baosteel to the United States during the POR may contain subject merchandise. We requested all of the documentation relating to these shipments and placed the documentation on the record. *See* Memorandum to the File from Catherine Bertrand dated April 11, 2007. On April 11, 2007, we sent Baosteel a questionnaire regarding the entry documentation, and requested that Baosteel explain whether the entries were subject merchandise. On May 2, 2007, Baosteel responded and maintained that the entries in the entry documentation were for cold–rolled carbon steel which is outside the scope of the antidumping duty order. *See* Baosteel's May 2, 2007, submission: Response to April 11, 2007 Questionnaire. Petitioner did not provide comments on Baosteel's May 2, 2007, submission.

Scope of the Review

For purposes of this review, 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 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 review 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 review, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), 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 review unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this review:

- Alloy hot–rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico–manganese (as defined in the HTSUS) 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 HTSUS.

The merchandise subject to this review is classified in the HTSUS 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 carbon steel flat products covered by this review, 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 HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under review is dispositive.

Period of Review

The POR is November 1, 2005, through October 31, 2006.

Preliminary Rescission of Review

The Department has analyzed all of the information on the record regarding alleged U.S. entries of subject merchandise during the POR by Angang and Baosteel. As noted above, Petitioner placed information on the record from PIERS that indicated there may have been U.S. entries of subject merchandise during the POR from Angang and Baosteel.

The legal description of what enters the Unites States is determined by CBP entry documentation. Where a conflict exists between PIERS and CBP information, the Department weighs the CBP data more heavily because it contains the actual entry documentation

for the shipment, including the Customs 7501 form, invoice, and bill of lading. The CBP data regarding Baosteel indicates that the merchandise is not subject to the order covering this review. Additionally, the supporting documents placed on the record by Baosteel concerning these entries indicate that the merchandise at issue was cold–rolled steel, which is not subject to the scope of the order. CBP did not indicate that there were any shipments from Angang of subject merchandise into the United States during the POR. Therefore, the Department preliminarily finds that the merchandise from the entry documentation is not subject to the scope of the antidumping duty order on hot–rolled carbon steel flat product from the PRC.

Because there is no information on the record which indicates that either Angang or Baosteel made sales, shipments, or entries to the United States of subject merchandise during the POR, and because Angang and Baosteel are the only companies subject to this administrative review, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are preliminarily rescinding this review of the antidumping duty order on certain hot–rolled carbon steel flat products from the PRC for the period of November 1, 2005, to October 31, 2006. If the rescission is confirmed in our final results, the cash deposit rate for Angang and Baosteel will continue to be the rate established in the most recently completed segment of this proceeding.

Interested parties may submit comments for consideration in the Department's final results not later than 30 days after publication of this notice. Responses to those comments may be submitted not later than 10 days following submission of the comments. All written comments must be submitted in accordance with 19 CFR 351.303, and must be served on interested parties on the Department's service list in accordance with 19 CFR 351.303(f). The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of the preliminary results, and will publish these results in the **Federal Register**.

This notice is published in accordance with sections 751 and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: May 31, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–11206 Filed 6–8–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–829]

Stainless Steel Wire Rod from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request by Carpenter Technology Corporation, a domestic interested party, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel wire rod (SSWR) from the Republic of Korea (Korea). This review covers two producers/exporters of the subject merchandise that have been collapsed for purposes of the Department's analysis, consistent with prior determinations in this proceeding. The period of review is September 1, 2005, through August 31, 2006.

The Department has preliminarily determined that the companies subject to this review made U.S. sales of SSWR at prices less than normal value. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results of review. We will issue the final results of review no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: June 11, 2007.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–0410.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 1998, the Department published in the **Federal Register** the antidumping duty order on SSWR from Korea. See *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Wire Rod From Korea*, 63 FR 49331 (September 15, 1998) (*Amended Final Determination*), and *Stainless Steel Wire Rod From Korea: Amendment of Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision*, 66 FR 41550 (August 8, 2001) (*Amended Final Determination Pursuant to Court Decision*). In September 2006, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on SSWR from Korea. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 52061 (September 1, 2006).

On September 29, 2006, in accordance with 19 CFR § 351.213(b)(1), Carpenter Technology Corporation requested that the Department conduct a review of Changwon Specialty Steel Co., Ltd. (Changwon), and Dongbang Special Steel Co., Ltd. (Dongbang), and any of their affiliates (collectively, the respondent[1]) for the period from September 1, 2005, through August 31, 2006.

In October 2006, the Department initiated an administrative review of the respondent. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 63752 (October 31, 2006). On November 2, 2006, the Department issued its antidumping questionnaire to the respondent. The respondent did not respond to the Department's questionnaire. On December 15, 2006, we sent a letter to the respondent requesting that it respond to our questionnaire. The respondent submitted no response to this letter.

The Department is conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). The period of review is September 1, 2005, through August 31, 2006.

Scope of the Order

For purposes of this order, the products covered are those SSWR that are hot–rolled or hot–rolled annealed and/or pickled and/or descaled rounds, squares, octagons, hexagons or other shapes, in coils, that may also be coated with a lubricant containing copper, lime

[1] We collapsed Changwon and Dongbang in the less-than-fair-value investigation and in every subsequent review of this order because we found "a close supplier relationship between the entities." See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Korea*, 63 FR 40404, 40405 (July 29, 1998).

or oxalate. SSWR is made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are manufactured only by hot–rolling or hot–rolling annealing, and/or pickling and/or descaling, are normally sold in coiled form, and are of solid cross-section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed and pickled, and later cold–finished into stainless steel wire or small–diameter bar. The most common size for such products is 5.5 millimeters or 0.217 inches in diameter, which represents the smallest size that normally is produced on a rolling mill and is the size that most wire–drawing machines are set up to draw. The range of SSWR sizes normally sold in the United States is between 0.20 inches and 1.312 inches in diameter.

Two stainless steel grades are excluded from the scope of the order. SF20T and K–M35FL are excluded. The chemical makeup for the excluded grades is as follows:

	SF20T
Carbon	0.05 max
Manganese	2.00 max
Phosphorous	0.05 max
Sulfur	0.15 max
Silicon	1.00 max
Chromium	19.00/21.00
Molybdenum	1.50/2.50
Lead–added	(0.10/0.30)
Tellurium–added	(0.03 min)

	K–M35FL
Carbon	0.015 max
Silicon	0.70/1.00
Manganese	0.40 max
Phosphorous	0.04 max
Sulfur	0.03 max
Nickel	0.30 max
Chromium	12.50/14.00
Lead	0.10/0.30
Aluminum	0.20/0.35

The products subject to the order are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 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 the order is dispositive.

Use of Adverse Facts Available

Section 776(a)(2) of 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 use, subject to section 782(d) of the Act, the facts otherwise available in reaching the applicable determination.

Furthermore, section 776(b) of the Act provides 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," the Department may use information that is adverse to the interests of that party in selecting among the facts otherwise available. See Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA), H.R. Rep. No. 103–316 at 870 (1994).

By not responding to our questionnaire, the respondent withheld information we requested. Therefore, we have no choice but to rely upon the facts otherwise available in reaching our determination pursuant to section 776(a)(2) of the Act. See *Stainless Steel Sheet and Strip in Coils from Japan: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 18369 (April 11, 2005) ("because this company refused to participate in this administrative review, we find that...the use of total facts available is appropriate") (results unchanged in the final); see *Notice of Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons From Japan*, 68 FR 71072 (December 22, 2003) ("{s}ince UC and DNP withheld information requested by the Department, the Department has no choice but to rely on the facts otherwise available in order to determine a margin for these parties") (results unchanged in the final). Because the respondent did not respond to the Department's questionnaires in those cases, the Department could not calculate an accurate margin.

In applying facts otherwise available, section 776(b) of the Act states that, if 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 Department, in reaching the applicable determination under section 776(b) of the Act the Department may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. By failing to submit a response to the Department's questionnaire, the respondent did not cooperate to the best of its ability in this review. Accordingly, we find that an adverse inference is warranted to ensure that the respondent will not obtain a more favorable result than had it fully complied with our request in this review.

As adverse facts available, we have used the highest rate from any segment of the proceeding, which is a rate from the less–than-fair–value investigation, 28.44 percent. See *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Wire Rod From Korea*, 63 FR 49331 (September 15, 1998) (*Amended Final Determination*). This rate was the highest rate in the petition and was used as adverse facts available for Sammi Steel Co., Ltd. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Wire Rod from Korea*, 63 FR 10825 (March 5, 1998) (*Preliminary LTFV*); see also *Amended Final Determination*.

When a respondent is not cooperative, like the respondent here, the Department has the discretion to presume that the highest prior margin is probative evidence of current margins. See *Ta Chen Stainless Steel Pipe, Inc. v. United States*, 298 F.3d 1330, 1339 (Fed. Cir. 2002) (citing *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990) (*Rhone Poulenc*)). As stated in *Rhone Poulenc*, "if it were not so, the {respondent}, knowing of the rule, would have produced current information showing the margin to be less." See *Rhone Poulenc*, 899 F.2.d at 1190. Further, as stated in *Shanghai Taoen*, "{t}he purposes of using the highest prior antidumping duty rate are to offer assurance that the exporter will not benefit from refusing to provide information, and to produce an antidumping duty rate that bears some relationship to past practices in the industry in question." *Shanghai Taoen Int'l Trading Co. v. United States*, 360 F. Supp. 2d 1339, 1348 (CIT 2005) (*Shanghai Taoen*) (citing *D&L Supply Co. v. United States*, 113 F.3d 1220,1223 (Fed. Cir. 1997)).

Section 776(c) of the Act states that, "{w}hen the administering authority or the Commission relies on secondary information rather than on information obtained in the course of an investigation or review, the administering authority or the Commission, as the case may be, shall, to the extent practicable, corroborate that information from independent sources that are reasonably at their disposal." 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. Where the Department relies upon secondary information to determine adverse facts available, as here, section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information from independent sources that are reasonably at its disposal. The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* To corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *Id.* at 869. The independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See 19 CFR § 351.308(d) and SAA at 870. Information from a prior segment of this proceeding, such as that used here, constitutes secondary information. See, *e.g.*, *Anhydrous Sodium Metasilicate from France: Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 44283 (July 28, 2003). As described further below, in accordance with these standards, the Department finds that the petition rate is relevant and reliable.

The reliability of the adverse facts–available rate was determined by our corroboration of that rate in the original less–than-fair–value (LTFV) investigation. See *Preliminary LTFV*, 63 FR at 10826–7. No party contested the application of that rate in the investigation. See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Korea*, 63 FR 40404 (July 29, 1998). Furthermore, the Department has received no information to date that warrants revisiting the issue of the reliability of the adverse facts–available rate. Thus, the Department finds that the margin calculated in the LTFV investigation is reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. See *D&L Supply Co. v. United States*, 113 F. 3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances is present here.

In addition, although the Department has the discretion to presume that the highest prior margin has probative value, to "satisfy itself that the secondary information to be used has probative value," the Department has placed the margin–transaction database (*i.e.*, the U.S. sales database with the margins it calculated for each transaction) for the respondent from the immediately prior (2004–05) administrative review of the order on the record of this review. See Memorandum to File titled "Placing Proprietary Data from 2004–05 Administrative Review Record on the Record of This Administrative Review" dated June 1, 2007. This information demonstrates the recent pricing practices of the respondent.

Although the 2004–05 margin–transaction database is not contemporaneous with the period of review, it is only one year removed from the period for this review. The 2004–05 margin–transaction database corroborates the margin of 28.44 percent in that a significant number of transactions had margins equal to or above 28.44 percent. For a detailed explanation on how we corroborated of the margin of 28.44 percent, see Memorandum to File titled "Corroboration of Adverse Facts Available" dated June 1, 2007.

Accordingly, we determine that the highest rate determined in any segment of this administrative proceeding (*i.e.*, 28.44 percent) is in accordance with section 776(c) of the Act's requirement that we corroborate secondary information to the extent practicable (*i.e.*, that it have probative value) and we have used that rate for the respondent in this administrative review.

Preliminary Results of Review

As a result of this review, we preliminarily determine a weighted–average dumping margin of 28.44 percent for Changwon/Dongbang for the period September 1, 2005, through August 31, 2006.

Public Comment

Within 10 days of publicly announcing the preliminary results of this review, we will disclose to interested parties any analysis memoranda in connection with the preliminary results. See 19 CFR § 351.224(b). Any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. See 19 CFR § 351.310(c). If requested, a hearing will be held 44 days after the date of publication of this notice in the **Federal Register** or the first workday thereafter. Interested parties are invited to comment on the preliminary results of this review. The Department will consider case briefs filed by interested parties within 30 days after the date of publication of this notice in the **Federal Register**. Also, interested parties may file rebuttal briefs, limited to issues raised in the case briefs. The Department will consider rebuttal briefs filed not later than five days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with each argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities cited. Further, we request that parties submitting written comments provide the Department with a diskette containing an electronic copy of the public version of such comments. Unless the deadline for issuing the final results of review is extended, the Department will issue the final results of this administrative review, including the results of its analysis of issues raised in the written comments, within 120 days of publication of the preliminary results in the **Federal Register**.

Assessment Rates

Within 15 days of publication of the final results of review, the Department will issue instructions to CBP directing it to assess the final assessment rate uniformly on all entries during the period of review of subject merchandise that was produced or exported by Changwon/Dongbang. If nothing changes between this notice and the final results of review, the final assessment rate will be the adverse facts–available rate of 28.44 percent.

Cash–Deposit Requirements

The following cash–deposit requirements will be effective 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 Changwon/Dongbang will be the rate established in the final results of this review; (2) for previously investigated or reviewed companies not listed above, the cash–deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation but the manufacturer is, the cash–deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) the cash–deposit rate for all other manufacturers or exporters will continue to be the "all others" rate of 5.19 percent, which is the "all others" rate established in the LTFV investigation, as adjusted in a subsequent remand redetermination. See *Amended Final Determination* and *Amended Final Determination Pursuant to Court Decision*. These cash–deposit rates, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR § 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping 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: June 4, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–11246 Filed 6–8–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE.

International Trade Administration

[A–489–807]

Certain Steel Concrete Reinforcing Bars from Turkey; Notice of Extension of Time Limits for Final Results of Antidumping Duty Administrative Review and New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 11, 2007.

FOR FURTHER INFORMATION CONTACT: Irina Itkin, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0656.

Background

The Department of Commerce (the Department) published an antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey on April 17, 1997. *See Antidumpting Duty Order: Certain Steel Concrete Reinforcing Bars From Turkey*, 62 FR 18748. On May 31, 2006, the Department published a notice of initiation of an administrative review of the order on rebar from Turkey for the period April 1, 2005, through March 31, 2006. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 71 FR 30864 (May 31, 2006). The review covers five producers/exporters of the subject merchandise to the United States: Colakoglu Metalurji A.S./Colakoglu Dis Ticaret, Diler Demir Celik Endustrisi ve Ticaret A.S./Yazici Demir Celik Sanayi ve Turizm Ticaret A.S./Diler Dis Ticaret A.S., Ekinciler Demir ve Celik Sanayi A.S./Ekinciler Dis Ticaret A.S., Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S., and Kaptan Metal Dis Ticaret ve Nakliyat A.S./Kaptan Demir Celik Endustrisi ve Ticaret A.S.

In addition, on May 26, 2006, the Department published a notice of initiation of a new shipper review of the antidumping duty order on rebar from Turkey for Kroman Celik Sanayii A.S., a producer of subject merchandise, and its affiliated export trading company, Yucelboru Ihracat Ithalat ve Pazarlama A.S. (collectively "Kroman"). *See Notice of Initiation of New Shipper Antidumping Duty Review: Certain Steel Concrete Reinforcing Bars from Turkey*, 71 FR 30383 (May 26, 2006). Kroman agreed in writing to waive the time limits in order for the Department, pursuant to 19 CFR 351.214(j)(3), to conduct this review concurrently with the administrative review of this order for the period April 1, 2005, through March 31, 2006, which is being conducted pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act).

On May 4, 2007, the Department published the preliminary results of the administrative review and new shipper review of the antidumping duty order on rebar from Turkey. *See Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review and Notice of Intent to Revoke in Part*, 72 FR 25253 (May 4, 2007). The final results are currently due no later than September 4, 2007, the next business day after 120 days from publication of the preliminary results.

Extension of the Time Limit for Final Results of Administrative Review

Section 751(a)(3)(A) of the Act requires the Department to issue the final results in an administrative review within 120 days of the publication date of the preliminary results. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results to a maximum of 180 days. The Department has determined that completion of the final results of these reviews within the original time period is not practicable, given the extraordinarily complicated nature of the proceeding. The Department requires additional time complete the administrative review because of analysis of certain issues, including allegations raised by the domestic interested parties regarding affiliation among respondent companies, as well as the need to conduct verifications of certain companies. Furthermore, the new shipper review involves extraordinarily complicated issues including the above–mentioned allegations raised by the domestic interested parties regarding affiliation among respondent companies, as well as the need to conduct verification of the respondent. Therefore, the Department is fully extending the time limit for completion of the final results of the administrative and new shipper reviews to 180 days, until October 31, 2007.

This notice is issued and published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: June 4, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–11248 Filed 6–8–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

University of Miami, *et al.*; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m.. and 5 p.m. in Room 2104, U.S. Department of Commerce, 14th and Constitution Avenue., NW., Washington, DC.

Docket Number: 07–023. Applicant: University of Miami, Coral Gables, FL. Instrument: Electron Microscope, Model JEM–1400. Manufacturer: JEOL, USA, Inc., Japan. Intended Use: See notice at 72 FR 27076, May 14, 2007. Order Date: September 27, 2006.

Docket Number: 07–024. Applicant: Shriners Hospitals for Children, Portland, OR. Instrument: Transmission Electron Microscope. Manufacturer: FEI, Company, The Netherlands. Intended Use: See notice at 72 FR 27076, May 14, 2007. Order Date: December 20, 2006.

Docket Number: 07–027. Applicant: University of Missouri-Columbia, Columbia, MO. Instrument: Transmission Electron Microscope, Model JEM -1400. Manufacturer: JEOL, Japan. Intended Use: See notice at 72 FR 27076, May 14, 2007. Order Date: January 10, 2007.

Docket Number: 07–028. Applicant: Vanderbilt University, Nashville, TN. Instrument: Transmission Electron Microscope, Model FP 5005/05. Manufacturer: FEI, Brno, Czech Republic. Intended Use: See notice at 72 FR 27076, May 14, 2007. Order Date: December 20, 2006.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Dated: June 5, 2007.

Faye Robinson,

Director, Statutory Import Programs Staff.

[FR Doc. E7–11234 Filed 6–8–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE.

International Trade Administration

C–357–813

Honey from Argentina: Final Results of Full Sunset Review of the Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On February 28, 2007, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the full sunset review of the countervailing duty (CVD) order on Honey from Argentina, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of our analysis, the Department preliminarily found that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy.

We provided interested parties an opportunity to comment on our preliminary results. However, we received no comments from interested parties. As a result, the final results remain the same as the preliminary results of this review.

EFFECTIVE DATE: June 11, 2007.

FOR FURTHER INFORMATION CONTACT: Elfi Blum or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0197 or (202) 482–1391, respectively.

SUPPLEMENTARY INFORMATION: On February 28, 2007, the Department published its *Preliminary Results of Full Sunset Review: Countervailing Duty Order on Honey from Argentina*, 72 FR 8970 (February 28, 2007) (Preliminary Results). In our *Preliminary Results*, we found that revocation of the order would likely lead to continuation or recurrence of a countervailable subsidy on the subject merchandise.

Interested parties were invited to comment on our *Preliminary Results*. The Department received no comments from either the domestic interested parties or respondent interested parties.

Scope of the Order

The merchandise covered by this order is artificial honey containing more than 50 percent natural honeys by weight, preparations of natural honey containing more than 50 percent natural honeys by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, combs, cut comb, or chunk form, and whether packaged for retail or in bulk form. The merchandise subject to this order is currently classifiable under subheadings 0409.00.00, 1702.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection (CBP) purposes, the Department's written description of the merchandise covered by this order is dispositive.

Final Results of Review

As stated in the *Preliminary Results*, the Department determined that revocation of the countervailing duty order would likely lead to continuation or recurrence of a countervailable subsidy. In addition, we preliminarily determined that the net countervailable subsidy likely to prevail if the order were revoked is 5.85 percent. As we did not receive any comments from any interested parties regarding the *Preliminary Results*, we have no reason to reconsider our preliminary decision.

International Trade Commission (ITC) Notification

In accordance with section 752(b)(3) of the Act, we will notify the ITC of the final results of this full sunset review.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with section 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(c), 752, and 777(i) of the Act.

Dated: June 4, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–11249 Filed 6–8–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend the Export Trade Certificate of Review ssued to the American Sugar Alliance.

SUMMARY: Export Trading Company Affairs ("ETCA") of the International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review ("Certificate"). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or e-mail at *oetca@ita.doc.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination of whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 7021B, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, American Sugar Alliance, application number 06–A0003."

The American Sugar Alliance's ("ASA") original Certificate was issued on March 16, 2007 (72 FR 14081, March 26, 2007). A summary of the current application for an amendment follows.

Summary of the Application:

Applicant: American Sugar Alliance ("ASA"), 2111 Wilson Boulevard, Suite 600, Arlington, VA 22201.

Contact: Robert C. Cassidy, Jr., Counsel to ASA, *Telephone:* (202) 663–6740.

Application No.: 06–A0003.

Date Deemed Submitted: May 29, 2007.

Proposed Amendment: ASA seeks to amend its Certificate to:

1. Add the following company as a new "Member" of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)): Americane Sugar Refining LLC, Taylor, MI.

2. Revise the Export Trade Activities and Methods of Operation. The proposed changes, shown as underscored text, are as follows:

CPA Administration

The ASA will allocate all CPAs at one time. *ASA may reallocate CPAs if a new Producer becomes a Member.* In the event that any CPAs are returned to ASA for any reason, ASA will reallocate those CPAs among interested Producers. The allocation, and any reallocations, will be completed before December 16, 2007.

Information Collection and Exchange

ASA may ask Producers individually for their production capacity figures for 2006 for the purposes of allocating the CPAs. Producers may supply that information to ASA, and ASA may allocate *and reallocate* CPAs to Producers based on this information.

Dated: June 5, 2007.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E7–11145 Filed 6–8–07; 3:21 pm]

BILLING CODE 3510–DR–P

COMMODITY FUTURES TRADING COMMISSION

Order Exempting the Trading and Clearing of Certain Credit Default Products Pursuant to the Exemptive Authority in Section 4(c) of the Commodity Exchange Act ("CEA")

AGENCY: Commodity Futures Trading Commission

ACTION: Final order.

SUMMARY: On May 14, 2007, the Commodity Futures Trading Commission ("CFTC" or the "Commission") published for pubic comment in the **Federal Register** [1] a proposal to exempt for the CEA [2] the trading and clearing of certain products called credit default options ("CDOs") and credit default basket options ("CDBOs") that are proposed to be traded on the Chicago Board Options Exchange ("CBOE"), a natioal securities exchange registered under Section 6 of the Securities Exchange Act of 1934 ("1934 Act"),[3] and cleared through the Options Clearing Corporation ("OCC"), a registered securities clearing agency registered under Section 17A of the 1934 Act,[4] and Derivatives Clearing Organization registered under Section 5b of the CEA.[5] The proposed order was preceded by a request from OCC to approve rules that would permit it to clear these CDOs and CDBOs in its capacity as a registered securities clearing agency. OCC's request presented novel and complex issues of jurisdiction and the Commission determined that an order exempting the trading and clearing of such instruments from pertinent requirements of the CEA may be appropriate. The Commission has reviewed the comments made in response to its proposal and the entire record in this matter and has determined to issue an order exempting the trading and clearing of these contracts from the CEA.

Authority for this exemption is found in Section 4(c) of the CEA.[6]

DATES: *Effective Date:* June 5, 2007.

FOR FURTHER INFORMATION CONTACT: John C. Lawton, Deputy Director and Chief Counsel, 202–418–5480; *jlawton@cftc.gov,* Robert B. Wasserman, Associate Director, 202–418–7719, *lgregory*@cftc.gov,* Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three

[1] 72 FR 27091 (May 14, 2007).

[2] 7 U.S.C. 1 et seq.

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78q–1.

[5] 7 U.S.C. 7a–1.

[6] 7 U.S.C. 6(c).

Lafayette Centre, 1151 21st, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

Introduction

The OCC is both a Derivatives Clearing Organization ("DCO") registered pursuant to Section 5b of the CEA,[7] and a securities clearing agency registered pursuant to Section 17A of the 1934 Act.[8] The CBOE is a national securities exchange registered as such under Section 6 of the 1934 Act.[9]

CBOE has filed with the Securities and Exchange Commission ("SEC") proposed rule changes to provide for the listing and trading on CBOE of cash-settled products characterized by CBOE as options based on credit events in one or more debt securities of specified "Reference Entities." [10] These products are referred to as Credit Default Options ("CDOs"), and would pay the holder a specified amount upon the occurrence, as determined by CBOE, of a "Credit Event," defined to mean an "Event of Default" on any debt security issued or guaranteed by a specified "Reference Entity."

CBOE has also filed with the SEC proposed rule changes to provide for the listing and trading on CBOE of products called Credit Default Basket Options ("CDBOs").[11] These are similar in concept to CDOs, except that a CDBO covers more than one Reference Entity. For each individual Reference Entity, a notional value (a fraction of the aggregate Notional Face Value of the basket) and a recovery rate is specified. CDBOs may be of the multiple-payout variety, or of the single-payout variety, where a payout occurs only the first time a Credit Event is confirmed with respect to a Reference Entity prior to expiration.

OCC has filed with the CFTC, pursuant to Section 5c(c) of the CEA and Commission Regulations 39.4(a) and 40.5 thereunder,[12] requests for approval of rules and rule amendments that would enable OCC to clear and settle these CDOs and CDBOs in its capacity as a registered securities clearing agency (and not in its capacity as a DCO).[13] Section 5c(c)(3) provides that the CFTC must approve any such rules and rule amendments submitted for approval unless it finds that the rules or rule amendments would violate the CEA.

The request for approval concerning the CDO product was filed effective March 8, 2007. On April 23, 2007, the review period was extended pursuant to Regulation 40.5(c) until June 6, 2007, on the ground that the CDOs "raise novel or complex issues, including the nature of the contract, that require additional time for review." The request for approval concerning the CDBO product was filed effective April 23, 2007.

II. Section 4(c) of the Commodity Exchange Act

Section 4(c)(1) of the CEA empowers the CFTC to "promote responsible economic or financial innovation and fair competition" by exempting any transaction or class of transactions from any of the provisions of the CEA (subject to exceptions not relevant here) where the Commission determines that the exemption would be consistent with the public interest. The Commission may grant such an exemption by rule, regulation or order, after notice and opportunity for hearing, and may do so on application of any person or on its own initiative. In enacting Section 4(c), Congress noted that the goal of provision "is to give the Commission a means of providing certainty and stability to existing and emerging markets so that financial innovation and market development can proceed in an effective and competitive manner." [14] As noted in the proposing release,[15] In granting an exemption, the CFTC need not find that the CDOs and CDBOs are (or are not) subject to the CEA.

Section 4(c)(2) provides that the Commission may grant exemptions only when it determines that the requirements for which an exemption is being provided should not be applied to the agreements, contracts or transactions at issue, and the exemption is consistent with the public interest and the purposes of the CEA; that the agreements, contracts or transactions will be entered into solely between appropriate persons; and that the exemption will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory responsibilities under the CEA.

In the May 14, 2007 **Federal Register** release, the Commission requested public comment on the matters discussed above and all issues raised by its proposed exemptive order.

III. Comment Letters

The Commission received four comment letters. The Chicago Mercantile Exchange ("CME") stated that it "applauds" the Commission's proposal to promote innovation but that it believed some issues should be addressed before a final order is issued. CME argued that: (1) It would be unfair for OCC and CBOE to receive exemptive relief yet continue to oppose CME's efforts to list competitive products; (2) the Commission should not accept OCC's and CBOE's characterization of the products as options; (3) there are strong arguments that the products are based on commodities, not securities; and (4) it is not proper to define "appropriate persons" in terms of the status of the person's intermediary.

OCC focused on the "appropriate persons" issue. OCC argued that in light of the customer suitability rules and the overall federal securities regulatory framework, the products would be limited to "appropriate persons."

The Chicago Board of Trade "CBOTS") suggested that characterizing the CDOs and CDBOs as "novel instruments" should be repudiated or clarified because it could have implications under the patent laws.

IV. Findings and Conclusions

After considering the complete record in this matter, including the comments received, the Commission has determined that the requirements of Section 4(c) have been met.[16] First, the exemption is consistent with the public interest and with the purposes of the CEA. The purposes of the CEA include "promot[ing] responsible innovation and fair competition among boards of trade, *other markets* and market participants." [17] With respect to the competitive issue raised by CME in its comment letter, the Commission believes that an exemptive order in response to OCC's request for rule approval is the best way to promote responsibile innovation and fair competition among futures markets and securities markets. In cases such as this one where innovative products come close to the jurisdictional line between commodities and securities, rather than attempting to draw that line with precision with regard to the CBOE products and thereby potentially

[7] 7 U.S.C. 7a–1.

[8] 15 U.S.C. 78q–1.

[9] 15 U.S.C. 78f.

[10] See Release No. 34–55251, 72 FR 7091 (Feb. 14, 2007).

[11] See *SR–CBOE–2007–026*.

[12] 7 U.S.C. 7a–2(c), 17 CFR §§ 39.4(a), 40.5.

[13] See SR–OCC–2007–01 A–1; SR–OCC–2007–06. OCC has filed identical proposed rule changes with the SEC.

[14] HOUSE CONF. REPORT ON NO. 102–978, 1992 U.S.C.C.A.N. 3179, 3213 ("4(c) Conf. Report").

[15] 72 FR 27091 (May 14, 2007).

[16] In this regard, consistent with the legislative history to Section 4(c) of the CEA, the Commission is not making a finding that CDOs and CDBO are (or are not) subject to the CEA.

[17] CEA Section 3(b), 7 U.S.C. 5(b) (emphasis added. See also CEA Section 4(c)(1), 7 U.S.C. 6(c)(1) (purpose of exemptions is "to promote responsible economic or financial innovation and fair competition.")

imposing litigation costs on both the private sector and the public sector, it may be more efficient and is a proper use of Section 4(c) exemptive authority to permit, without compromising the public interest, the products to trade on both sides of the line and let competitive forces determine which venue is successful.

Second, the CDOs and CDBOs would be entered into solely between appropriate persons. This issue was discussed by both CME and OCC in their respective comment letters. Section 4(c)(3) includes within the term "appropriate persons" a number of specified categories of persons, but also in subparagraph (K), "such other persons that the Commission determines to be appropriate in light of * * * *the applicability of appropriate regulatory protections.*" (Emphasis added.) These products will be traded on a regulated exchange. CBOE, OCC, and their members who will intermediate these transactions, are subject to extensive and detailed oversight by the SEC and, in the case of the intermediaries, the securities self-regulatory organizations. It should be noted that CME has listed or will list comparable products and has not limited access to its markets to specified categories of persons. In light of where the products will be traded, the regulatory protections available under the securities laws, and the goal of promoting fair competition, these products will be traded by appropriate persons.

Third, the exemption would not have a material adverse effect on the ability of the Commission or any designated contract market to carry out their regulatory responsibilities under the CEA. There is no reason to believe that granting an exemption here would interfere with the Commission's or a designated contract market's ability to oversee the trading of similar products on a designated contract market or otherwise to carry out their duties. None of the comment letters received addressed this issue.[18]

Therefore, upon due consideration, pursuant to its authority under Section 4(c) of the CEA, the Commission hereby issues this Order and exempts the trading and clearing of CDOs and CDBOs to be listed and traded on CBOE and cleared through OCC as a securities clearing agency from the CEA. This Order is contingent upon the approval by the SEC, pursuant to Section 19(b) of the 1934 Act, of CBOE and OCC rules to permit the listing and trading of CDOs and CDBOs on CBOE. This Order is subject to termination or revision, on a prospective basis, if the Commission determines upon further information that this exemption is not consistent with the public interest. If the commission believes such exemption becomes detrimental to the public interest, the Commission may revoke this Order on its own motion.

V. Related Matters

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 ("PRA")[19] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The order would not require a new collection of information from any entities that would be subject to the order.

B. Cost-Benefit Analysis

Section 15(a) of the CEA, as amended by Section 119 of the Commodity Futures Modernization Act of 2000 ("CFMA"),[20] requires the Commission to consider the costs and benefits of its action before issuing an order under the CEA. By its terms, Section 15(a) as amended does not require the Commission to quantify the costs and benefits of an order or to determine whether the benefits of the order outweigh its costs. Rather, Section 15(a) simply requires the Commission to "consider the costs and benefits" of its action.

Section 15(a) of the CEA further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular order was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the CEA.

The order issued today is expected to facilitate market competition. The commission has considered the costs and benefits of the order in light of the specific provisions of Section 15(a) of the CEA, as follows:

1. *Protection of market participants and the public.* Protections for market participants and the public exist in that CBOE, OCC and their members who will intermediate CDOs and CDBOs are subject to extensive oversight by the SEC and, in the case of intermediaries, securities self-regulatory organizations.

2. *Efficiency, competition, and financial integrity.* The exemptive order may enhance market efficiency and competition since it could encourage potential trading of CDOs and CDBOs on markets other than designated contract markets. Financial integrity will not be impaired since the CDOs and CDBOs will be cleared by OCC, a DCO and SEC-registered clearing agency, and intermediated by SEC-registered broker-dealers.

3. *Price discovery.* Price discovery may be enhanced through market competition.

4. *Sound risk management practices.* OCC has described appropriate risk-management practices that it will follow in connection with the clearing of CDOs and CDBOs.

5. *Other public interest considerations.* The exemptive order may encourage development of credit derivative products through market competition without unnecessary regulatory burden.

The Commission requested comment on its application of these factors in the proposing release. No comments were received.

After considering these factors, the Commission has determined to issue this Order.

* * * * *

Issued in Washington, DC, on June 5, 2007 by the Commission.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 07–2878 Filed 6–8–07; 8:45 am]

BILLING CODE 6351–01–M

[18] Under Section 4(c) of the CEA, the Commission need not resolve whether, as CME argues in its comment letter, these products are based on commodities and not securities, or, as CBOE argues in its comment letter, these products are securities subject to the securities laws. Nor need the Commission determine, as CME urges, whether the products are properly characterized as options. Finally, the Commission notes that its references to the novelty of the issues raised by these products refer to issues under the CEA and were not intended to be applicable in any matter relating to patent or intellectual property law.

[19] 44 U.S.C. 3507(d).

[20] 7 U.S.C. 19(a).

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning the proposed information collection project: "Determining the Prevalence of Disability Among Current Members in the Corporation for National and Community Service AmeriCorps Programs."

Copies of the information collection requests can be obtained by contacting the office listed in the address section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by August 10, 2007.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service; Office of Leadership Development and Training, 9th Floor, Attn: Jewel Bazilio-Bellegarde, Sr. Training and Disability Inclusion Officer, 1201 New York Ave., NW., Washington, DC 20525.

(2) By hand delivery or by courier to the Corporation's mailroom at Room 8102C at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) By fax to: 202–606–3477, attn: Jewel Bazilio-Bellegarde, Sr. Training & Disability Inclusion Officer, Corporation for National and Community Service.

(4) Electronically through the Corporation's e-mail address system: *jbazilio@cns.gov.*

FOR FURTHER INFORMATION CONTACT: Jewel Bazilio-Bellegarde, (202) 606–6839, or by e-mail at *jbazilio@cns.gov.*

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submissions of responses).

Background

The proposed project will pilot test a survey which seeks to determine the prevalence of disability among current AmeriCorps members serving in Corporation programs. By conducting this pilot test, the Corporation seeks to refine an instrument which can be used in future research to track the prevalence rate of persons with disabilities serving as members. The goals of the study are to: (1) Test and refine a questionnaire which measures the prevalence of disability; (2) produce statistically reliable estimates for the prevalence of disability among current members in the Corporation's three AmeriCorps programs (AmeriCorps National Civilian Conservation Corps (NCCC); AmeriCorps State and National; and AmeriCorps VISTA); (3) produce a report for the Corporation on study methodology and findings and for peer-reviewed manuscripts, as appropriate.

The project involves a survey administered under four experimental conditions, to test response rates and disability disclosure rates under different modes of survey administration. These conditions will include: (1) Mail questionnaire only; (2) e-mail only, with link to complete web survey; (3) mailed letter with web option only; and (4) both a mail questionnaire and web option provided in mailing.

Data collection for this effort will be conducted in accordance with the Health Insurance Portability and Accountability Act (HIPPA) Privacy rule with the Protection of Human Research Subjects regulations, 45 CFR part 46. In addition, data collected will only be used for the above stated purposes and identifiable data collected from individuals in the study will be kept confidential, using only aggregate level-data in products or reports.

Current Action

This is an application for a new data collection in support of a pilot study. The pilot study will be conducted via four experimental conditions to test the impact of mode of survey administration on both response rates and rates of disability among the Corporation's three AmeriCorps service programs. The sample will be drawn from the Corporation's master list of 74,689 current AmeriCorps members, stratified by program, to include NCCC, Americorps State and National, and VISTA. We will draw a sample of 2,400 members, with an anticipated response rate of 80 percent across all four experimental conditions. Participation in the survey will be voluntary and there will be no monetary incentives provided for participants.

The quantitative data collected through the questionnaire will gather information about members' disability status as it pertains to: learning disabilities; ADD/ADHD; developmental disabilities, cognitive limitations; sensory; mobility; disabling chronic health conditions; psychiatric/mental health; communications; substance abuse; traumatic brain injury; short stature/little person; and perceptions of disability from self or others. The categorical response options will be used to analyze these data and determine how many respondents report a disability of any kind, by service program.

Type of Review: New Information Collection.

Agency: Corporation for National and Community Service.

Title: Determining the Prevalence of Disability Among Current Members in the Corporation for National and Community Service AmeriCorps Programs.

OMB Number: Not yet available—application being submitted.

Agency Number: None.

Affected Public: Members in AmeriCorps NCCC, AmeriCorps State and National, and AmeriCorps Vista.

Total Respondents: 2400.

Frequency: One time.

Average Time per Response: Averages 8 minutes.

Estimated Total Burden Hours: 320 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or

included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 1, 2007.

Gretchen Van der Veer,

Director, Office of Leadership Development and Training.

[FR Doc. E7–11149 Filed 6–8–07; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 10, 2007.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 5, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: New.

Title: High School Equivalency Program (HEP) Annual Performance Report.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 61.

Burden Hours: 2,440.

Abstract: For the Migrant HEP Program, a customized Annual Performance Report (APR) that goes beyond the generic 524B is requested to facilitate the collection of more standardized and comprehensive data to inform Government Performance and Results Act (GPRA), to improve the overall quality of data collected, and to increase the quality and quantity of data that can be used to inform policy decisions.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 3379. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–11155 Filed 6–8–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Elementary and Secondary Education Act; Implementation; Single-Sex Classes and Schools; Guidelines

AGENCY: Office for Civil Rights, U.S. Department of Education.

ACTION: Notice.

SUMMARY: The Secretary of Education gives notice that "Guidelines on current title IX requirements related to single-sex classes and schools," published in the **Federal Register** on May 8, 2002 (67 FR 31102), for use by State educational agencies (SEAs) and local educational agencies (LEAs) in certain applications for Innovative Programs funds, is withdrawn. The Secretary also gives notice that the new final regulations implementing Title IX of the Education Amendments of 1972 (Title IX), which prohibits sex discrimination in federally assisted education programs and activities, published in the **Federal Register** on October 25, 2006 (71 FR 62530), which expand flexibility for recipients to provide single-sex classes and schools and include a preamble explaining the requirements of these new regulations, are deemed guidelines on Title IX requirements for single-sex classes and schools for the purposes of the requirements of 20 U.S.C. 7215(c) and 20 U.S.C. 7215b(b)(9) with respect to applications for Innovative Programs funds to support single-sex classes and schools.

DATES: This notice is effective June 11, 2007.

FOR FURTHER INFORMATION CONTACT: Sandra G. Battle, U.S. Department of Education, 400 Maryland Avenue, SW., room 6125, Potomac Center Plaza, Washington, DC 20202–1100. Telephone: (202) 245–6767.

If you use a telecommunications device for the deaf (TDD), you may call 1–877–521–2172. For additional copies of this document, you may call the Customer Service Team for the Office for Civil Rights (OCR) at (202) 245–6800 or 1–800–421–3481.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: The No Child Left Behind Act of 2001 (NCLB Act) permits LEAs to use Innovative Programs funds to support, among other things, single-sex schools and classes consistent with applicable law. 20 U.S.C. 7215(a)(23). In this regard the

NCLB Act required the Secretary of Education (Secretary) to issue guidelines for LEAs regarding the applicable law on single-sex classes and schools. 20 U.S.C. 7215(c). The NCLB Act provides that LEAs may submit applications for Innovative Programs funds and receive allocations of funds in connection with applications that are certified by the SEA pursuant to NCLB Act requirements. 20 U.S.C. 7215b(a). Among the requirements applicable to SEA certification of LEA applications for Innovative Programs funds is that LEA applications that seek funds for the purpose of supporting single-sex classes and schools contain a description of how the LEA will comply with the guidelines issued by the Secretary on the law applicable to single-sex classes and schools. 20 U.S.C. 7215b(b)(9).

On May 8, 2002, in fulfillment of the NCLB Act requirement, the Secretary issued "Guidelines on current title IX requirements related to single-sex classes and schools" (2002 Guidelines). (67 FR 31102). The 2002 Guidelines described certain provisions of Title IX, 20 U.S.C. 1681 *et seq.*, and the Department of Education's (Department) regulations implementing Title IX, 34 CFR part 106, that provide requirements pertaining to nondiscrimination on the basis of sex in single-sex classes and schools in education programs and activities that receive financial assistance from the Department.[1] The 2002 Guidelines focused in major part on 34 CFR 106.34 and 106.35, which provide specific requirements for single-sex classes and schools.[2] On October 25, 2006, the Department published final regulations, which amended 34 CFR 106.34 and 106.35 regarding requirements applicable to single-sex classes, extracurricular activities, and schools. (71 FR 62530). The new regulations took effect on November 24, 2006.

The new regulations made substantive and technical changes to 34 CFR 106.34 and 106.35. Consequently, the 2002 Guidelines describe former requirements for single-sex classes and schools that have been superseded, in part, by new requirements. In addition, the final regulations published on October 25, 2006 in the **Federal Register** included a preamble explaining the requirements of 34 CFR 106.34 and 106.35.

The Department has determined that issuance of a revision of the 2002 Guidelines would be repetitive of the more comprehensive information provided in the 2006 **Federal Register** document. Accordingly, the Department has determined that it would be preferable to withdraw the 2002 Guidelines and to rely on the final regulations published in the **Federal Register** on October 25, 2006 (71 FR 62530), which include a preamble explaining the requirements of the new regulations, 34 CFR 106.34 and 106.35, as guidelines on the current requirements of the Title IX regulations on single-sex classes and schools for the purpose of satisfaction of the NCLB Act requirement that the Secretary provide guidelines on applicable law.

Accordingly, by this notice, the Department withdraws the 2002 Guidelines.

Electronic Access to This Document

You may review this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

This notice also is available on OCR's Web site at: *http://www.ed.gov/ocr.*

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Authority: 20 U.S.C. 1681, 1682.

Dated: June 5, 2007.

Margaret Spellings,

Secretary of Education.

[FR Doc. E7–11253 Filed 6–8–07; 8:45 am]

BILLING CODE 4000–01–P

[1] Also on May 8, 2002, the Department published a notice of intent to regulate, stating the Department's intent to amend the Title IX regulations to provide more flexibility for single-sex classes and schools at the elementary and secondary education levels and inviting comments from the public. (67 FR 31097). On March 9, 2004, the Department published proposed regulations that proposed to amend 34 CFR 106.34 and 106.35 to provide more flexibility for single-sex classes and schools at the elementary and secondary education levels. (69 FR 11276).

[2] The 2002 Guidelines also explained the requirements of 34 CFR 106.3 relative to single-sex classes and schools and 34 CFR 106.15(d) relative to single-sex nonvocational elementary and secondary schools, as well as certain statutory provisions relative to single-sex education. These other regulations were not amended, and this notice does not affect them or the Department's interpretation of them.

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education; Overview Information; National Research Center for Career and Technical Education; Notice Inviting Applications for a New Award for Fiscal Year (FY) 2006

Catalog of Federal Domestic Assistance (CFDA) Number: 84.051A

Dates:

Applications Available: June 11, 2007.

Deadline for Transmittal of Applications: August 10, 2007.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: Section 114(d)(4) of the Carl D. Perkins Career and Technical Education Act of 2006 (Act) authorizes the Secretary, after consulting with the States, to establish a national research center (Center) to carry out scientifically based research and evaluation, and to conduct dissemination and training activities consistent with the purposes of the Act. Further, section 114(d)(5) of the Act authorizes the Secretary to provide technical assistance, upon request of a State, for the purpose of developing, improving, and identifying the most successful methods and techniques for providing career and technical education programs assisted under the Act. Under the authority of section 114(d)(5), the Secretary will provide technical assistance to States through the Center.

Background Information

The Act, a reauthorization of the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins III), continues the commitment to high-quality career and technical education embodied in Perkins III. The Act continues the previous legislation's focus on developing challenging academic and technical standards and assisting students in meeting such standards, including through preparation for high-skill, high-wage, or high-demand occupations in current or emerging professions and in nontraditional fields. The Act is aligned with the principles of the Elementary Secondary Education Act of 1965, as amended (20 U.S.C. 6301 *et seq.*) (ESEA) in that it promotes the development of services and activities that integrate rigorous and challenging academic course work with career and technical education so that all students can be prepared for postsecondary education and careers.

Consultation Process

Pursuant to section 114(d)(4) of the Act, which requires the Secretary to consult with States before establishing a Center, we used several strategies to conduct consultations and provided a number of opportunities for States and other interested parties to give suggestions regarding the Center. For example, the Department—

(a) Used e-mail to solicit suggestions from State Directors of career and technical education and representatives of professional organizations and associations;

(b) Posted on the Department's Web site an invitation for the public to provide suggestions on what the Department needs to consider when establishing a Center;

(c) Invited State Directors, during the September 2006 Conference of the National Association of State Directors of Career and Technical Education Consortium, to send the Department suggestions on how the Center could best serve their needs; and

(d) Held a meeting with State Directors of career and technical education, representatives of career and technical education professional organizations and associations, and members of the higher education community to discuss their research, evaluation, and technical assistance needs and to request suggestions on how the Center could best serve their respective needs.

We appreciate the time that various interested parties took to provide us with suggestions. We carefully considered the suggestions we received as we determined the focus and activities of the Center as described in this notice.

Required Project Activities

Through this competition, the Secretary will award a cooperative agreement to establish a national research center for career and technical education that implements sections 114(d)(4) and (5) of the Act to—

(a) Carry out scientifically based research and evaluation for the purpose of developing, improving, and identifying the most successful methods for addressing the education, employment, and training needs of participants, including special populations, in career and technical education programs, including research and evaluation in activities such as—

(1) The integration of—

(i) Career and technical instruction; and

(ii) Academic, secondary, and postsecondary instruction;

(2) Education technology and distance learning approaches and strategies that are effective with respect to career and technical education;

(3) State-adjusted levels of performance and State levels of performance that serve to improve career and technical education programs and student achievement;

(4) Academic knowledge and career and technical skills required for employment or participation in postsecondary education; and

(5) Preparation for occupations in high-skill, high-wage, or high-demand business and industry, including examination of—

(i) Collaboration between career and technical education programs and business and industry; and

(ii) Academic and technical skills required for a regional or sectoral workforce, including small businesses (20 U.S.C. 2324(d)(4)(A)(i));

(b) Carry out scientifically based research and evaluation to increase the effectiveness and improve the implementation of career and technical education programs that are integrated with coherent and rigorous content aligned with challenging academic standards, including by conducting research and development, and studies, that provide longitudinal information or formative evaluation with respect to career and technical education programs and student achievement (20 U.S.C. 2324(d)(4)(A)(ii));

(c) Carry out scientifically based research and evaluation that can be used to improve the preparation and professional development of teachers, faculty, and administrators, and to improve student learning in the career and technical education classroom including—

(1) Effective in-service and preservice teacher and faculty education that assists career and technical education programs in—

(i) Integrating those programs with academic content standards and student academic achievement standards, as adopted by States under section 1111(b)(1) of the ESEA; and

(ii) Coordinating career and technical education with industry-recognized certification requirements;

(2) Dissemination and training activities related to the applied research and demonstration activities described in this section of the notice, which may also include serving as a repository for information on career and technical skills, State academic standards, and related materials; and

(3) The recruitment and retention of career and technical education teachers, faculty, counselors, and administrators, including individuals in groups underrepresented in the teaching profession (20 U.S.C. 2324(d)(4)(A)(iii));

(d) Carry out such other research and evaluation, consistent with the purposes of the Act, as the Secretary determines appropriate to assist State and local recipients of funds under the Act (20 U.S.C. 2324(d)(4)(A)(iv));

(e) Conduct dissemination and training activities based upon the research performed by the Center and described in this notice (20 U.S.C. 2324(d)(4)(C)), including—

(1) Developing, for dissemination, information on promising or best practices for enhancing student achievement and performance that are based on scientifically based research, conducted by the Center and others, and that are geared to administrators, teachers, counselors, and policymakers; and

(2) Disseminating information on best practices for the purposes of developing, improving, and identifying the most successful methods and techniques for providing career and technical education programs assisted under the Act (20 U.S.C. 2324(d)(5)); and

(f) Provide technical assistance upon request of a State for the purpose of developing, improving, and identifying the most successful methods and techniques for providing career and technical education programs assisted under the Act (20 U.S.C. 2324(d)(5)).

Cooperative Agreement, Program Requirements, Application Requirements, Priorities and Definitions

Cooperative Agreement:

The Secretary plans to make an award to the Center under the terms of a cooperative agreement. The Secretary expects to have substantial involvement with the grantee during the performance of the funded project. Substantial involvement on the part of the Department includes:

(a) Direct operational involvement in the review and approval of project activities.

(b) Continuing and regular participation in the project.

(c) Halting an activity immediately if detailed performance specifications or requirements are not met.

(d) Reviewing and approving one stage of work before the Center can begin a subsequent stage during the project period.

(e) Collaborating or participating jointly with the Center in the assisted activities.

Program Requirements:

To ensure the high quality of the Center and the accomplishment of the goals and purposes of sections 114(d)(4) and (5) of the Act, the Secretary

establishes the following requirements for this competition:

(a) *Center Director.* The grantee institution must appoint a full-time Director for the Center.

(b) *Advisory Committee.* (1) The grantee institution must establish an advisory committee to provide the Center with advice and a diversity of perspectives on the—

(i) Research, evaluation, and technical assistance needs of the career and technical education community;

(ii) Center's scientifically based research;

(iii) Center's dissemination activities;

(iv) Center's technical assistance activities; and

(v) Other activities undertaken and materials published by the Center, in carrying out the purposes of the Act.

(2) Each applicant must budget for, and include in its application, preliminary plans for an advisory committee. The preliminary plans must describe the composition of the advisory committee, including the affiliations, professional qualifications, and proposed length of service of potential advisory committee members.

(3) After the cooperative agreement is awarded, the Center must provide, for the Department's approval, a detailed plan for the advisory committee, including reasonable assurances that persons identified as members will serve in the capacity stated in the detailed plan.

(c) *Project meetings.* The applicant must plan and budget for—

(1) The Center Director to attend a two-day meeting in Washington, DC at least once a year, for each year of the project to review performance and discuss the Center's plans for scientifically based research, evaluation, dissemination, professional development and technical assistance;

(2) The Center Director and other key staff to attend the following:

(i) A two-day post-award conference with program officials in Washington, DC that will be held within 30 days after the date of the grant award notice. The purpose of this conference will be to—

(A) Review and discuss the terms of the cooperative agreement between the Center and the Department;

(B) Review and discuss the applicant's plans for the scientifically based research, evaluation, dissemination, professional development, and technical assistance to be carried out by the Center over the five years of the project period;

(C) Discuss and establish how the grantee institution, the Center and the Department will work together as partners, under the terms of the cooperative agreement, to accomplish the purposes of the grant award; and

(D) Establish specific lines of communication and feedback between the Center and the Department.

(ii) A one-day annual performance review with program officials in Washington, DC at the end of each project year.

(d) *Alignment and Consultation.* (1) To the extent possible, the Center must align its professional development activities with those professional development activities carried out—

(i) By "eligible agencies" and "eligible recipients," as those terms are defined in sections 3(12) and 3(14) of the Act (20 U.S.C. 2302(12) and (14)); and

(ii) Under the ESEA and the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*).

(2) In order to exchange information, avoid duplication of effort, pool resources, and improve the overall effectiveness of the Center's activities, the Center must, to the extent possible, consult with the sponsors of activities that are similar or related to its activities, especially activities of the Department's Policy and Program Studies Service (the lead office for the National Assessment of Career and Technical Education), Office of Elementary and Secondary Education, Office of Postsecondary Education, Office of Special Education and Rehabilitative Services, Comprehensive Centers (particularly the National High School Center), National Research and Development Centers, and Regional Educational Labs. In addition, the Center must consult with the National Science Foundation; national career and technical education professional associations or organizations; and other similar or related agencies, organizations, associations, and activities.

(e) *Publications.* The Center must establish an effective quality control process for all publications resulting from or used in the Center's research, dissemination, technical assistance, and professional development activities.

(f) *Evaluation and GPRA Measures.* (1) The applicant must budget for and include preliminary plans in the application for an independent evaluator to—

(i) Conduct an ongoing evaluation of the Center's effectiveness; and

(ii) Annually measure and report on the GPRA measures identified in the *Performance Measures* section of this notice.

(2) The preliminary plans must describe—

(i) The methods of evaluation to be used to measure the effectiveness of the Center; and

(ii) With regard to the GPRA measures, (A) the composition of the expert panels that the Center's evaluator will use to assess the Center's performance under paragraphs (a) and (b) of the *Performance Measures* section of this notice, including the affiliations and professional qualifications of panel members; (B) how the Center plans to ensure the objectivity of the expert panels; and (C) the procedures the Center will use, as required by paragraphs (c) and (d) of the *Performance Measures* section of this notice, to assess the usefulness and quality of the technical assistance services and professional development activities the Center provides.

(3) After the cooperative agreement is awarded, the Center must provide, for the Department's approval, a detailed plan for conducting the evaluation and measuring and reporting on the GPRA measures.

(4) The results of the evaluation must be submitted to the Secretary in an interim evaluation report during the third year of the project and in a final evaluation report during the fifth year of the project.

(5) The results of the evaluation must be used to provide feedback for continuous improvement in the operation of the Center.

(6) In determining the overall effectiveness of the Center, the evaluation must take into account the Center's performance on the Government Performance and Results Act of 1993 (GPRA) measures of effectiveness identified in the *Performance Measures* section of this notice.

(g) *Contingency Plan.* During the final year of the five-year project period, the Center must develop and be prepared to implement a contingency plan for completing all substantive work by the end of the eleventh month of the final project year and transferring all the products, data, services, materials, and research studies to a successor Center during the twelfth month of the final project year.

Application Requirements:

Applicants must plan for a 10-month project period for the first year of the project to enable the Center to establish a July-to-June project period for the second through the fifth year of the project and to align the Center's activities with the academic year.

Applicants must include, in addition to the items identified in paragraphs (b)(2), (c), and (f) of the *Program*

Requirements, the following in their applications—

(a) *Research Plan.* A plan that describes the strategies and approaches the applicant intends to use to carry out the scientifically based research and evaluation activities described in section 114(d)(4) of the Act and in the *Required Project Activities* section of this notice. The plan must be a focused program of scientifically based research that consists of a set of tightly linked studies that build on each other;

(1) In the research plan, applicants must include—

(i) Research studies that are fully consistent with the standards in the definition of the term "scientifically based research," contained in section 3(25) of the Act and in the *Definitions* section of this notice.

(ii) Significant research studies that focus on the improvement of teaching and student outcomes.

(iii) Research strands, that is, thematic research areas, including the specific research studies for each strand or area for the first two years of the project period, on which the applicant plans to focus during the five years of the project. The proposed studies—

(A) Must represent a balance of secondary and postsecondary studies; and

(B) Can be a mix of short-term and longitudinal research studies.

(iv) Individual research proposals for studies the applicant intends to initiate during the first two years of the project period. These research proposals must provide a critical review (i.e., a discussion of the strengths and weaknesses of studies that are reviewed) of the relevant literature, the theoretical rationale, clear and specific research questions, and a description of the methods and procedures, along with any instrumentation, that will be used. If a proposed research study builds on one or more existing studies, the applicant must include enough information for the Secretary to assess whether—

(A) The study was well-designed and implemented, and addressed research questions of practical and policy importance; and

(B) Scientifically based research standards were followed.

(v) Areas where further research is most likely to identify highly effective approaches, methods, programs, models, or strategies.

(2) The application must also include information that demonstrates the applicant's performance history in scientifically based research. As evidence of the applicant's performance history, an applicant must provide in the application the full study reports on two scientifically based research studies led by key project research personnel. The study reports must include enough information for the Secretary to be able to assess whether the studies were well-designed and implemented, and addressed research questions of practical and policy importance.

(b) *Dissemination Activities Plan.* A plan that describes the strategies and approaches the applicant intends to use to carry out efficiently and effectively the dissemination activities described in the *Required Project Activities* section of this notice, including:

(1) A description of the procedures and methodologies (e.g., expert panels) the applicant intends to use to identify instructional approaches, methods, programs, models, or strategies in career and technical education and related areas that are supported by the strongest evidence of a meaningful, sustained effect on career and technical education participants' education and employment outcomes.

Note: Applicants are encouraged to refer to: (1) *How to evaluate whether an intervention is backed by "strong" evidence of effectiveness* on the Internet at *http://ies.ed.gov/ncee/pubs/evidence_based/evaluation.asp* and (2) *Identifying and Implementing Educational Practices Supported By Rigorous Evidence: A User Friendly Guide* on the Internet at *http://www.ed.gov/print/rschstat/pubs/rigorousevid/guide.html.*

(2) Strategies and approaches for disseminating to the career and technical education community (*e.g.*, administrators, teachers, counselors, and policy-makers) the findings, results, and reports from the Center's research activities in order to increase the knowledge base of programs and models proven effective in scientifically based research.

(3) Strategies and approaches for identifying and disseminating to the career and technical education community information from other sources of relevant research in order to increase the knowledge base of career and technical education programs and models that have been proven effective in scientifically based research.

(c) *Technical Assistance Plan.* A plan that describes the strategies and approaches the applicant will use to carry out the technical assistance activities described in the *Required Project Activities* section of this notice in the most cost-effective and efficient manner, including a description of how the Center will—

(1) Respond to a need identified by a State, including how the Center will coordinate with a State on providing the State with appropriate technical assistance;

(2) Provide activities intended to reach a large number or proportion of career and technical education programs, teachers, and administrators in a State;

(3) Assist a State in implementing, identifying, or improving State levels of performance that improve career and technical education programs and student achievement;

(4) Assist a State to improve the data quality of its State accountability systems, including the:

(i) Processes that strengthen the reliability, validity, and integrity of data collection and analysis.

(ii) Accessibility of appropriate and timely data.

(iii) Accuracy of descriptions of performance.

(iv) Collection processes that yield unbiased, unprejudiced, and impartial data results.

(v) Presentation of the data so that the data clearly provide an accurate assessment of performance; and

(5) Provide State and local educational agencies, educators, and other program providers with technical assistance in replicating instructional approaches, methods, programs, models, or strategies shown to be effective using scientifically based research.

(d) *Professional Development Plan.* A plan that describes the strategies and approaches the applicant will use to carry out the professional development activities described in the *Required Project Activities* section of this notice in the most cost-effective and efficient manner, including strategies and approaches that—

(1) Provide high-quality professional development that will improve and increase instructional personnel's knowledge, skills, and ability to help students meet challenging and rigorous academic and career and technical skill proficiencies;

(2) Will advance instructional personnel's understanding of effective instructional strategies that are supported by scientifically based research; and

(3) Are sustained, intensive, and classroom-focused.

Priorities:

We are establishing these priorities for the FY 2006 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

Competitive Preference Priorities: These priorities are competitive

preference priorities. Under 34 CFR 75.105(c)(2)(i), we award each application up to an additional 70 points (from 5 to 15 points for each priority, as indicated) depending on how well the application meets one or more of these priorities. The points awarded are in addition to any points the application earns under the selection criteria for this competition, provided elsewhere in this notice.

These priorities are:

(a) *Technical Assistance Priorities*

1. *Use of Technical Skills Assessments Priority:* We award up to 5 points to an application that proposes to—

(i) Inform States of the availability of valid and reliable technical skills assessments; and

(ii) Assist States in selecting appropriate, valid, and reliable technical skills assessments.

2. *Enhancing Student Academic and Technical Skills Achievement and Performance Priority:* We award up to 15 points to an application that proposes to provide educational agencies, educators, and other program providers with technical assistance on replicating current promising or best practices in instructional approaches, methods, programs, models, or strategies, including approaches, methods, programs, models, or strategies that are accepted by the field as effective for the purpose of enhancing student academic and technical skills achievement and performance, including the academic and technical skills achievement and performance of students preparing for employment in nontraditional fields, and those that have been shown to be effective using scientifically based research.

(b) *Scientifically Based Research Priorities*

1. *Use of Technical Skills Assessments Priority:* We award up to 10 points to an application that proposes—

(i) Activities that investigate the—

(A) Availability, at the national, State, and local levels, of valid and reliable technical skills assessments that are aligned with industry-recognized standards; and

(B) Extent to which States and local eligible recipients use valid and reliable technical skills assessments that are aligned with industry-recognized standards, to measure the attainment of technical skills proficiencies by career and technical education students; and

(ii) Activities that encourage the development of valid and reliable technical skills assessments that are aligned with industry-recognized standards in technical skills areas where none previously existed.

2. *Student Outcomes Priority:* We award up to 15 points to an application that proposes studies that will examine programs and practices designed to improve student outcomes in career and technical education.

3. *Academic Achievement Priority:* We award up to 15 points to an application that proposes studies that investigate and validate whether curricula that integrate coherent and rigorous content that is aligned with challenging academic standards (e.g., at the secondary level, reading and language arts, mathematics, and science) and challenging career and technical skill proficiencies results in improvements in the academic achievement of students, including special populations, enrolled in career and technical education programs.

4. *Programs of Study Priority:* We award up to 10 points to an application that proposes activities that—

(i) Promote improvements in career and technical education programs of study (i.e., implementing career and technical education programs that (A) incorporate secondary education and postsecondary elements, (B) include coherent and rigorous content aligned with challenging academic standards and relevant career and technical content in a coordinated, non-duplicative progression of courses that align secondary education with postsecondary education to adequately prepare students to succeed in postsecondary education, (C) may include the opportunity for secondary education students to participate in dual or concurrent enrollment programs or other ways to acquire postsecondary education credits, and (D) lead to an industry-recognized credential or certificate at the postsecondary level, or an associate or baccalaureate degree); and

(ii) Encourage States to adopt these improvements in career and technical education programs of study statewide in programs operated by eligible recipients and postsecondary institutions.

Definitions:

Career and technical education means organized educational activities that—

(a) Offer a sequence of courses that—

(1) Provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions;

(2) Provides technical skills proficiency, an industry-recognized credential, a certificate, or an associate degree; and

(3) May include prerequisite courses (other than remedial courses) that meet the requirements of this definition; and

(b) Include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual. (20 U.S.C. 2302(5))

Coherent sequence of courses means a series of courses in which career and academic education is integrated, and that directly relates to, and leads to, both academic and occupational competencies. The term includes competency-based education and academic education, and adult training or retraining, including sequential units encompassed within a single adult retraining course that otherwise meet the requirements of this definition.

Institution of higher education means—

(a) An educational institution in any State that—

(1) Admits, as regular students, only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a two-year program that is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary of Education for the granting of preaccreditation status, and the Secretary of Education has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) The term also includes—

(1) Any school that provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of

paragraphs (a)(1), (2), (4) and (5) of this definition.

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in paragraph (a)(1) of this definition, admits as regular students, persons who are beyond the age of compulsory school attendance in the State in which the institution is located. (20 U.S.C. 1001 and 2302(18))

Scientifically based research means research that is carried out using scientifically based research standards, as defined in section 102 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9501). (20 U.S.C. 2302(25))

Scientifically based research standards means research standards that—

(a) Apply rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to education activities and programs; and

(b) Present findings and make claims that are appropriate to, and supported by, the methods that have been employed.

The term includes, appropriate to the research being conducted—

(a) Employing systematic, empirical methods that draw on observation or experiment;

(b) Involving data analyses that are adequate to support the general findings;

(c) Relying on measurements or observational methods that provide reliable data;

(d) Making claims of causal relationships only in random assignment experiments or other designs (to the extent such designs substantially eliminate plausible competing explanations for the obtained results);

(e) Ensuring that studies and methods are presented in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;

(f) Obtaining acceptance by a peer-reviewed journal or approval by a panel of independent experts through a comparably rigorous, objective, and scientific review; and

(g) Using research designs and methods appropriate to the research question posed. (20 U.S.C. 2302(25) and 9501(18))

Special populations means—

(a) Individuals with disabilities;

(b) Individuals from economically disadvantaged families, including foster children;

(c) Individuals preparing for nontraditional training fields;

(d) Single parents, including single pregnant women;

(e) Displaced homemakers; and

(f) Individuals with limited English proficiency.

(20 U.S.C. 2302(29))

Note: Definitions of the terms "nonprofit," "private," and "public" are in 34 CFR 77.1.

Applicants are encouraged to review all applicable definitions in section 3 of the Act.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed non-statutory requirements, definitions, and selection criteria. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements, non-statutory requirements, definitions, and selection criteria governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under section 114(d)(4) and (5) of the Act and, therefore, qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the non-statutory requirements, definitions, and selection criteria under the authority of section 437(d)(1) of GEPA. These non-statutory requirements, definitions, and selection criteria will apply to the FY 2006 competition only.

Program Authority: 20 U.S.C. 2324(d)(4) and (5).

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $2,200,000 for the first 10 months of the project, and $4,500,000 for funding 12-month project periods for each successive 12-month budget period for years two through five. Continuation of funding for the Center is subject to the availability of funds and to the grantee meeting the requirements of 34 CFR 75.253. FY 2006 funds will be used for new awards under this competition.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* The following entities are eligible to apply under this competition:

(a) Institutions of higher education.

(b) Public or private nonprofit organizations or agencies. (*See* 34 CFR 75.51, "How to prove nonprofit status.")

(c) A consortium of institutions of higher education, or of public or private nonprofit organizations or agencies. Eligible applicants seeking to apply for funds as a consortium must comply with the regulations in 34 CFR 75.127–75.129, which address group applications.

2. *Cost Sharing and Matching.* This competition does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Dr. Ricardo Hernandez, U.S. Department of Education, 400 Maryland Avenue, SW., room 11137, Potomac Center Plaza, Washington, DC 20202–7241. *Telephone:* (202) 245–7818. Or *Fax:* (202) 245–7837 or *e-mail: Ricardo.Hernandez@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities may obtain a copy of the application package in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the person listed under *Alternative Format* in section VIII of this notice in this section.

2. *Content and Form of Application Submission:*

Requirements concerning the content of the application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. There is no page limit for the application narrative; however, you must use the following standards:

- A "page" is 8.5″ × 11″;, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures and graphs.
- Use a font that is either 12 point or larger or not smaller than 10 pitch (characters per inch).

3. *Submission Dates and Times:*

Applications Available: June 11, 2007.

Deadline for Transmittal of Applications: August 10, 2007.

Applications for grants under this program may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restriction in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:*

Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

To comply with the President's Management Agenda, we are participating as a partner in the Governmentwide Grants.gov Apply site. The National Research Center for Career and Technical Education, CFDA Number 84.051A, is included in this project. We request your participation in Grants.gov.

If you choose to submit your application electronically, you must use the Governmentwide Grants.gov Apply site at *http://www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

You may access the electronic grant application for the National Research Center for Career and Technical Education at *http://www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.051, not 84.051A).

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date and time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*
- To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- If you submit your application electronically, you must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance).
- If you submit your application electronically, you must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.051A), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center, Stop 4260, *Attention:* (CFDA Number 84.051A), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.051A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this program are as follows. The maximum score for each criterion is indicated in parentheses. The maximum score for all the criteria is 105 points.

(a) *Quality of project design* (30 points). The Secretary considers the quality of the project design.

In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the proposed project activities represent a—

(i) Coherent, sustained approach that is exceptional for each of the required research, evaluation, development, dissemination, professional development, and technical assistance activities described in the *Required Project Activities* section of this notice; and

(ii) Balance between secondary and postsecondary education.

(2) The significance or magnitude of the scientifically based research proposed by the project, especially as it relates to improvement in teaching and student outcomes.

(3) The extent to which the proposed research design includes—

(i) A model in which multiple investigators conduct studies that are coordinated around the research strands or thematic areas on which the applicant proposes to focus; and

(ii) The use of appropriate theoretical models and scientifically based research standards that represent the most rigorous designs appropriate to the research being proposed.

(4) The extent to which the proposed dissemination plan includes: (i) A thorough, high-quality review of the relevant literature to identify current promising or best practices that are accepted by the field as effective and are based on scientifically based research; (ii) a comparably rigorous, objective, and scientific review of instructional approaches, methods, programs, models, or strategies to be disseminated; (iii) a high-quality plan for dissemination activities; and (iv) the use of a variety of effective approaches.

(5) The extent to which the project proposes models for dissemination that incorporate approaches that meet the needs of different communities of users.

(6) The extent to which the professional development activities proposed by the project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(7) The extent to which the proposed technical assistance plan reflects in-

depth knowledge and understanding of available scientifically valid, research-based practice, evidence-based practice, or both, to improve student achievement in academic and career and technical education, and demonstrates knowledge of, and access to, reliable sources for obtaining such knowledge on an ongoing basis.

(8) The extent to which the proposed project will consult with sponsors of similar or related efforts, and with other appropriate community, State, and Federal resources, such as those of the Department's Policy and Program Studies Service, Comprehensive Centers (particularly the National High School Center), National Research and Development Centers, and Regional Educational Labs.

(b) *Institutional capability* (15 points). The Secretary considers the institutional capability of the applicant or of consortium members, if the applicant is a consortium. In assessing institutional capability, the Secretary reviews the application to determine the extent to which the applicant understands the state of knowledge and practice related to career and technical education, as evidenced by the depth and breadth of its documented experience in and capacity for—

(1) Conducting scientifically based research, development, evaluation, dissemination, professional development, and technical assistance activities of the type described in the *Required Program Activities* section of this notice; and

(2) Delivering technical assistance across a range of urban and rural educational settings.

(c) *Quality of the management plan* (20 points). The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(2) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timeliness and milestones for accomplishing project tasks, and a clearly articulated plan for continuous improvement.

(3) The adequacy of procedures for coordination and communication among staff, subcontractors, members of the consortium, if any, and the Department, in particular, for the frequent and detailed communication that will be required under the cooperative agreement between the Center and the Department's Office of Vocational and Adult Education.

(4) The adequacy of mechanisms for ensuring high-quality research and evaluation, dissemination, technical assistance, and professional development from the proposed project.

(5) The adequacy of the plans for an objective independent assessment, in accordance with the *Program Requirements* section of this notice, of the Center's performance on the GPRA measures.

(d) *Quality of personnel* (20 points). The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the following:

(1) The extent to which the application presents evidence of the Center Director and key personnel having a history of conducting high-quality scientifically based research, including whether the studies described as evidence of the applicant's performance history were well-designed and implemented, and addressed research questions of practical and policy importance.

(2) The extent to which the application presents evidence of professional preparation and successful prior experience of the Center's director and other key personnel, including contractors, key consultants, and partners, if any, that indicate that each has the knowledge, skills, and ability to carry out successfully the responsibilities they are assigned under the project, including the—

(i) Center Director's and key personnel's expertise and demonstrated successful experience with scientifically based research, effective technical assistance, and other activities similar to those that are to be carried out under the project; and

(ii) Demonstrated effectiveness of the Center Director and key personnel in providing technical assistance that utilizes scientifically based research and improves the academic and technical skill proficiencies of career and technical education students.

(3) The extent to which the time commitments of the Center Director and key personnel are appropriate and adequate to meet proposed project objectives.

(4) The extent to which the Center Director has prior relevant experience operating a project of the size and scope required for the purposes of the Center.

(5) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(e) *Adequacy of resources* (10 points). The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The adequacy of resources for the proposed project, including facilities, equipment, supplies, and other resources needed to carry out successfully the purpose and activities of the proposed project.

(2) The extent to which the budget is adequate to support the proposed project.

(3) The extent to which the costs are reasonable in relation to the objectives, design, and significance of the proposed project.

(f) *Evaluation* (10 points). The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(3) The extent to which the methods of evaluation will provide timely guidance for quality assurance.

(4) The extent to which the methods of evaluation—

(i) Include the use of objective performance measures that are clearly related to the intended outcomes of the project;

(ii) In determining the overall effectiveness of the Center, take into account the Center's performance on the GPRA measures in the *Performance Measures* section of this notice; and

(iii) Will produce quantitative and qualitative data, to the extent possible.

(5) The extent to which the methods of evaluation will ensure feedback on performance and continuous improvement in the operation of the proposed project.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy

requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the Center grant.

3. *Reporting.* (a) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html*.

(b) In addition, the Center must submit to the Secretary the following reports:

(1) Monthly exception reports that describe—

(i) Any problems, delays, or adverse conditions that materially impair the ability of the Center to accomplish its purposes, along with an explanation of any action taken or contemplated to resolve the difficulties; and

(ii) Any favorable developments that will permit the Center to accomplish its purposes sooner, at less cost, or more effectively than projected.

(2) Semi-annual performance reports.

(3) During the first 10 months of the project, financial status reports within 30 days of the 90th day, 180th day, and 270th day of the project period.

(4) Three printed copies and one electronic copy (pdf) of all substantive reports and products.

(5) An interim evaluation report in the third year of the project period and a final evaluation report in the fifth year of the project period.

(6) An annual report on the GPRA measures identified in the *Performance Measures* section of this notice.

(c) The Center must annually prepare a report of the key research findings of the Center and submit copies of the report to the Secretary, the relevant committees of Congress, the Library of Congress, and each "eligible agency," as defined in section 3(12) of the Act.

4. *Performance Measures:* Under GPRA, Federal departments and agencies must clearly describe the goals and objectives of programs, identify resources and actions needed to accomplish goals and objectives, develop a means of measuring progress made, and regularly report on achievement. One important source of program information on successes and lessons learned is the project evaluation conducted under individual grants. In evaluating the overall effectiveness of the Center, the Center must also be prepared to measure and report annually on the following measures of effectiveness:

a. The percentage of scientifically based research studies conducted by the Center that are of high relevance to career and technical education practices as determined by expert panels.

b. The percentage of products (e.g., instructional approaches, methods, programs, models, and strategies) disseminated to practitioners by the Center that are judged by expert panels to be of high quality.

c. The percentage of technical assistance services that are judged by target audiences to be of high usefulness to educational policy or practice.

d. The percentage of professional development activities offered by the Center that are judged by participants to be of high quality.

VII. Agency Contacts

For Further Information Contact: Dr. Ricardo Hernandez, U.S. Department of Education, 400 Maryland Avenue, SW., room 11137, Potomac Center Plaza, Washington, DC 20202–7241. *Telephone:* (202) 245–7818, *Fax:* (202) 245–7837, or by e-mail: *Ricardo.Hernandez@ed.gov*.

If you use a TDD, call the FRS at 1–800–877–8339.

VIII. Other Information

Alternative Format: Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice.

Electronic Access to This Document: You may view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Troy R. Justesen,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. E7–11135 Filed 6–8–07; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2007–0387, FRL–8324–5]

Agency Information Collection Activities; Proposed Collection; Comment Request; Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types; EPA ICR No. 1572.07, OMB Control No. 2050–0050

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on October 31, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before August 10, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2007–0387, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: rcra-docket@epa.gov.*
- *Fax:* 202–566–0272.
- *Mail:* RCRA Docket (5305T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* 1301 Constitution Ave., NW., Room B102, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–RCRA–2007–0387. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Norma Abdul-Malik, Office of Solid Waste (5303P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703–308–8753; fax number: 703–308–8617; e-mail address: abdul-malik@epa.gov.

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–RCRA–2007–0387, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for RCRA Docket is (202) 566–0270.

Use www.regulations.gov to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under DATES.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Affected entities: Entities potentially affected by this action are Business; Federal Government; and State, Local, or Tribal Government.

Title: Hazardous Waste Specific Unit Requirements, and Special Waste Processes and Types.

ICR numbers: EPA ICR No. 1572.07, OMB Control No. 2050–0050.

ICR status: This ICR is currently scheduled to expire on October 31, 2007.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR provides a discussion of all of the information collection requirements associated with specific unit standards applicable to owners and operators of facilities that treat, store, or dispose of hazardous wastes as defined by 40 CFR Part 261. It includes a detailed description of the data items and respondent activities associated with each requirement and with each hazardous waste management unit at a facility. The specific units and processes included in this ICR are: Tank systems, Surface impoundments, Waste piles, Land treatment, Landfills, Incinerators, Thermal treatment, Chemical, physical, and biological treatment, Miscellaneous (subpart X), Drip pads, Process vents, Equipment leaks, Containment buildings, Recovery/recycling.

With each information collection covered in this ICR, EPA is aiding the goal of complying with its statutory mandate under RCRA to develop standards for hazardous waste treatment, storage, and disposal facilities, to protect human health and the environment. Without the information collection, the agency cannot assure that the facilities are designed and operated properly.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average as follows:

Unit type	Hours per response
Subpart I: Containers	73
Subpart J: Tank Systems	77–80
Subpart K: Surface Impoundments	74–80
Subpart L: Waste Piles	19
Subpart M: Land Treatment	0
Subpart N: Landfills	39–43
Subpart O: Incinerators	3–5
Subpart P: Thermal Treatment Units	2
Subpart Q: Chemical, Physical, and Biological Treatment Units	6
Subpart W: Drip Pads	0
Subpart X: Miscellaneous Units	0
Subpart AA: Process Vents	422–660
Subpart BB: Equipment Leaks	47–48
Subpart DD: Containment Buildings	28–32
Part 266 Specific Hazardous Waste Recovery/Recycling Facilities	4

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 8,170.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 668,574 hours.

Estimated total annual costs: $4,384,000. This includes an estimated burden cost of $4,164,000 for labor, and an estimated cost of $220,000 for capital investment and maintenance and operational costs.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: May 8, 2007.

Matthew Hale,

Director, Office of Solid Waste.

[FR Doc. E7–11226 Filed 6–8–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2004–0077; FRL–8324–7]

Agency Information Collection Activities; Proposed Collection; Comment Request; Significant New Alternatives Policy (SNAP) Program Final Rulemaking Under Title VI of the Clean Air Act Amendments of 1990, EPA ICR Number 1596.06, OMB Control Number 2006–0226

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on December 31, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before August 10, 2007.

ADDRESSES: Submit your comments, identified by docket ID number EPA–HQ–OAR–2004–0077, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epamail.epa.gov.*
- *Fax:* 202–566–1741.
- *Mail:* Attention Docket ID No. EPA–HQ–OAR–2004–0077, U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, Northwest, Mailcode: 6102T, Washington, DC 20460.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room 3334, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2004–0077. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2004–0077. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. {For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Monica Shimamura, Stratospheric Protection Division, Alternatives and Emission Reductions Branch, Mail Code 6205J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,

Washington, DC 20460; telephone number: (202) 343–9337; fax number: (202) 343–2362; e-mail address: *shimamura.monica@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID number EPA–HQ–OAR–2004–0077, which is available for online viewing at *http://www.regulations.gov*, or in person at or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Docket is 202–566–1752.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES.**
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Docket ID No. EPA–HQ–OAR–2004–0077

Affected entities: Entities potentially affected by this action are manufacturers, importers, formulators and processors of substitutes for ozone-depleting substances.

Title: Significant New Alternatives Policy (SNAP) Program Final Rulemaking Under Title VI of the Clean Air Act Amendments of 1990.

ICR numbers: EPA ICR Number 1596.06, OMB Control Number 2006–0226.

ICR status: This ICR is scheduled to expire on December 31, 2007.

Abstract: Information collected under this rulemaking is necessary to implement the requirements of the Significant New Alternatives Policy (SNAP) program for evaluating and regulating substitutes for ozone-depleting chemicals being phased out under the stratospheric ozone protection provisions of the Clean Air Act (CAA). Under CAA Section 612, EPA is authorized to identify and restrict the use of substitutes for class I and class II ozone-depleting substances where EPA determines other alternatives exist that reduce overall risk to human health and the environment. The SNAP program, based on information collected from the manufacturers, formulators, and/or sellers of such substitutes, identifies acceptable substitutes. Responses to the collection of information are mandatory under Section 612 for anyone who sells or, in certain cases, uses substitutes for an ozone-depleting substance after April 18, 1994, the effective date of the final rule. Under CAA Section 114(c), emissions information may not be claimed as confidential.

To develop the lists of acceptable and unacceptable substitutes, the Agency must assess and compare "overall risks to human health and the environment" posed by use of substitutes in the context of particular applications. EPA requires submission of information covering a wide range of health and environmental factors. These include intrinsic properties such as physical and chemical information, ozone depleting potential, global warming potential, toxicity, and flammability, and use-specific data such as substitute applications, process description, environmental release data, environmental fate and transport, and cost information. Once a completed submission has been received, a 90 day review period under the SNAP program will commence. Any substitute which is a new chemical must also be submitted to the Agency under the Premanufacture Notice program under the Toxic Substances Control Act (TSCA). Alternatives that will be used in pesticide formulations must be filed jointly with EPA's Office of Pesticide Programs and with SNAP.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 6 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency.

This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 6.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours per respondent: 464.6 hours.

Estimated total average annual costs per respondent: $12,110.48. This includes an estimated burden cost of $12,110.48 and an estimated cost of $0 for capital investment or maintenance and operational costs.

For persons filing a SNAP Information Notice or petition, the reporting burden is estimated to average 252.7 hours per year from each of approximately 6 submitters, with estimated labor costs of roughly $15,162 and average annualized startup costs of $3153 for gathering information from each respondent. For persons filing a TSCA/SNAP Addendum, the reporting burden is estimated to average 46 hours per year from each of two submitters at a labor cost of $2760 each. For persons filing a notification of test marketing activity, the reporting burden is estimated to average 2 hours per year from one submitter at a cost of $120. For persons keeping records supporting use of a substitute subject to narrowed use limits, the recordkeeping burden is estimated to average 27 hours per year from approximately 250 users, at an average cost of $1620 each. For persons keeping records of a small volume use, the recordkeeping burden is estimated to average 12 hours per year from each of approximately ten companies at an average cost of $720 each. The total burden on respondents is estimated at 8204 hours per year at a cost of roughly $511,430.

Are There Changes in the Estimates From the Last Approval?

For persons filing a SNAP Information Notice or petition, the reporting burden is estimated to average 252.7 hours per year. For persons filing a TSCA/SNAP Addendum, the reporting burden is estimated to average 46 hours per year. For persons filing a notification of test marketing activity, the reporting burden is estimated to average 2 hours per year. For persons keeping records of use of a substitute subject to narrowed use limits, the recordkeeping burden is estimated to average 27 hours per year. For persons keeping records of a small volume use, the recordkeeping burden is estimated to average 12 hours per year.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: June 4, 2007.

Brian J. McLean,

Director, Office of Atmospheric Programs.

[FR Doc. E7–11228 Filed 6–8–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8325–2]

Request for Nominations to the National and Governmental Advisory Committees to the U.S. Representative to the Commission for Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for nominations.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is inviting nominations of qualified candidates to be considered for appointment to fill vacancies on the National Advisory Committee (NAC) and the Governmental Advisory Committee (GAC) to the U.S. Representative to the Commission for Environmental Cooperation (CEC). Vacancies on these two committees are expected to be filled by September, so we encourage nominations to be submitted by July 15, 2007.

ADDRESSES: Submit nominations to: Oscar Carrillo, Designated Federal Officer, Office of Cooperative Environmental Management, U.S. Environmental Protection Agency (1601–E), 1200 Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Oscar Carrillo, Designated Federal Officer, U.S. Environmental Protection Agency (1601–E), Washington, DC 20004; telephone (202) 233–0072; fax (202) 233–0060; e-mail *carrillo.oscar@epa.gov*.

SUPPLEMENTARY INFORMATION: The National Advisory Committee and the Governmental Advisory Committee advise the EPA Administrator in his capacity as the U.S. Representative to the CEC Council. The Committees are authorized under Articles 17 and 18 of the North American Agreement on Environmental Cooperation (NAAEC), the North American Free Trade Agreement (NAFTA) Implementation Act, Public Law 103–182, and as directed by Executive Order 12915, entitled "Federal Implementation of the North American Agreement on Environmental Cooperation." The Committees are responsible for providing advice to the United States Representative on a wide range of strategic, scientific, technological, regulatory and economic issues related to implementation and further elaboration of the (NAAEC). The National Advisory Committee consists of 12 representatives from environmental non-profit groups, business and industry, and educational institutions. The Governmental Advisory Committee consists of 12 representatives from state, local, and tribal governments. Members are appointed by the EPA Administrator for a two-year term with the possibility of reappointment. The Committees usually meet 3 times per year and the average workload for Committee members is approximately 10 to 15 hours per month. Members serve on the Committees in a voluntary capacity. However, EPA provides reimbursement for travel expenses associated with official government business. The following criteria will be used to evaluate nominees:

- Extensive professional knowledge of the subjects the Committees examine, including trade and the environment, the NAFTA, the NAAEC, and the CEC.
- Represent a sector or group that is involved in the issues the Committees evaluate.
- Senior-level experience that fills a need on the Committees for their particular expertise.

• A demonstrated ability to work in a consensus building process with a wide range of representatives from diverse constituencies.

Nominees will also be considered with regard to the mandates of the Federal Advisory Committee Act that require the Committees to maintain diversity across a broad range of constituencies, sectors, and groups. Nominations for membership must include a cover letter and a resume describing the professional and educational qualifications of the nominee and the nominee's current business address and daytime telephone number.

Dated: May 21, 2007.

Oscar Carrillo,

Designated Federal Officer.

[FR Doc. E7–11211 Filed 6–8–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8326–6]

Science Advisory Board Staff Office; Notification of an Upcoming Closed Meeting of the Science Advisory Board's Scientific and Technological Achievement Awards Committee, Sunshine Act Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency's (EPA), Science Advisory Board (SAB) Staff Office announces a closed meeting of the SAB's Scientific and Technological Achievement Awards (STAA) Committee to recommend to the Administrator the recipients of the Agency's 2007 Scientific and Technological Achievement Awards.

DATES: The meeting dates are Monday and Tuesday, August 13 and 14, 2007 from 8:30 a.m. to 5 p.m. and Wednesday, August 15, 2007, from 8:30 a.m. to 1 p.m. (eastern standard time).

ADDRESSES: The closed meeting will be held at the U.S. EPA Science Advisory Board Staff Office Conference Room, 1025 F Street NW., Suite 3700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information regarding this announcement may contact Ms. Vivian Turner, Designated Federal Officer, by telephone: (202) 343–9697 or e-mail at: *turner.vivian@epa.gov*.

The SAB Mailing address is: U.S. Environmental Protection Agency, Science Advisory Board (1400F), 1200 Pennsylvania Ave., NW., Washington, DC 20460. General information about the SAB as well as any updates concerning the meeting announced in this notice may be found in the SAB Web site at: *http://www.epa.gov/sab/panels/staarp.htm*.

SUPPLEMENTARY INFORMATION:

Summary: Pursuant to Section 10(d) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, and section (c)(6) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6), EPA has determined that the meeting will be closed to the public. The purpose of the meeting is for the SAB to recommend to the Administrator the recipients of the Agency's 2007 Scientific and Technological Achievement Awards. These awards are established to honor and recognize EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, as exhibited in publication of their results in peer-reviewed journals. This meeting is closed to the public because it is concerned with selecting which employees are deserving of awards, a personnel matter with privacy concerns, which is exempt from public disclosure pursuant to section 10(d) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, and section (c)(6) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6). In accordance with the provisions of the Federal Advisory Committee Act, minutes of the meeting will be kept for Agency and Congressional review.

Dated: June 5, 2007.

Stephen L. Johnson,

Administrator.

[FR Doc. 07–2898 Filed 6–7–07; 1:13 pm]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8324–8]

Clean Water Act Section 303(d): Availability of List Decisions

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability.

SUMMARY: This notice announces the availability of EPA's Responsiveness Summary Concerning EPA's March 31, 2005 Public Notice of Final Decisions to Add Waters and Pollutants to Louisiana's 2002 and 2004 Section 303(d) Lists.

On April 12, 2005, EPA published a notice in the **Federal Register** at Volume 70, Number 69, pages 19079–19080 providing the public the opportunity to review its final decisions to add waters and pollutants to Louisiana's 2002 and 2004 Section 303(d) Lists as required by EPA's Public Participation regulations (40 CFR Part 25). Based on the Responsiveness Summary, no further action is warranted regarding EPA's Final Action on Louisiana's 2002 and 2004 Section 303(d) Lists.

ADDRESSES: Copies of EPA's Responsiveness Summary Concerning EPA's March 31, 2005 Public Notice of Final Decisions to Add Waters and Pollutants to Louisiana's 2002 and 2004 Section 303(d) Lists can be obtained at EPA Region 6's Web site at *http://www.epa.gov/region6/water/npdes/tmdl/eparesponsecommentsver2.pdf,* or by writing or calling Ms. Diane Smith at Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733, telephone (214) 665–2145, facsimile (214) 665–6490, or e-mail: *smith.diane@epa.gov.* Underlying documents from the administrative record for these decisions are available for public inspection at the above address. Please contact Ms. Smith to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Diane Smith at (214) 665–2145.

SUPPLEMENTARY INFORMATION: Section 303(d) of the Clean Water Act (CWA) requires that each state identify those waters for which existing technology-based pollution controls are not stringent enough to attain or maintain state water quality standards. For those waters, states are required to establish Total Maximum Daily Loads (TMDLs) according to a priority ranking.

EPA's Water Quality Planning and Management regulations include requirements related to the implementation of Section 303(d) of the CWA (40 CFR 130.7). The regulations require states to identify water quality limited waters still requiring TMDLs every two years. The list of waters still needing TMDLs must also include priority rankings and must identify the waters targeted for TMDL development during the next two years (40 CFR 130.7). On March 31, 2000, EPA promulgated a revision to this regulation that waived the requirement for states to submit Section 303(d) Lists in 2000 except in cases where a court order, consent decree, or settlement agreement required EPA to take action on a list in 2000 (65 FR 17170).

Consistent with EPA's regulations, Louisiana submitted to EPA its 2002 and 2004 listing decisions under Section 303(d) on August 21, 2003 and

April 1, 2004 respectively. On March 31, 2005, EPA approved Louisiana's 2002 listing of 442 water body-pollutant combinations and associated priority rankings and Louisiana's 2004 listing of 444 water body-pollutant combinations and associated priority rankings. EPA disapproved Louisiana's 2002 listing decisions not to list 44 water quality limited segments and associated pollutants (or 69 water body-pollutant combinations) and Louisiana's 2004 listing decisions not to list 14 water quality limited segments and associated pollutants (or 17 water body-pollutant combinations). EPA identified these additional waters and pollutants along with priority rankings for inclusion on the 2002 and 2004 Section 303(d) Lists.

Dated: May 31, 2007.

Miguel I. Flores

Director, Water Quality Protection Division, Region 6.

[FR Doc. E7–11209 Filed 6–8–07; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT SYSTEM INSURANCE CORPORATION

Regular Meeting

AGENCY: Farm Credit System Insurance Corporation Board.

SUMMARY: Notice is hereby given of the regular meeting of the Farm Credit System Insurance Corporation Board (Board).

Date and Time: The meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on June 12, 2007, 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 System Insurance Corporation Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102.

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

- April 12, 2007 (Open and Closed)

B. Business Reports.

- Investment Program Review.
- FCSIC Financial Report.
- Report on Insured Obligations.
- Quarterly Report on Annual Performance Plan.

C. New Business

- Mid-year Review of Insurance Premium Rates.

Closed Session

- FCSIC Report on System Performance.

Dated: June 5, 2007.

Roland E. Smith,

Secretary, Farm Credit System Insurance Corporation Board.

[FR Doc. E7–11168 Filed 6–8–07; 8:45 am]

BILLING CODE 6710–01–P

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting Notice; Announcing a Partially Open Meeting of the Board of Directors

TIME AND DATE: The open meeting of the Board of Directors is scheduled to begin at 10 a.m. on Wednesday, June 13, 2007. The closed portion of the meeting will follow immediately the open portion of the meeting.

PLACE: Board Room, First Floor, Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006.

STATUS: The first portion of the meeting will be open to the public. The final portion of the meeting will be closed to the public.

MATTER TO BE CONSIDERED AT THE OPEN PORTION: *Final Rule: Financial Interests for Appointive Directors.*

MATTER TO BE CONSIDERED AT THE CLOSED PORTION: *Periodic Update of Examination Program Development and Supervisory Findings.*

CONTACT PERSON FOR MORE INFORMATION: Shelia Willis, Paralegal Specialist, Office of General Counsel, at 202–408–2876 or *williss@fhfb.gov*.

Dated: June 6, 2007.

By the Federal Housing Finance Board.

Neil R. Crowley,

Acting General Counsel.

[FR Doc. 07–2890 Filed 6–6–07; 4:36 pm]

BILLING CODE 6725–01–P

FEDERAL TRADE COMMISSION

[File No. 061 0257]

Rite Aid Corporation and The Jean Coutu Group (PJC), Inc.; Analysis of The Agreement Containing Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order -- embodied in the consent agreement -- that would settle these allegations.

DATES: Comments must be received on or before July 9, 2007.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to "Rite Aid and The Jean Coutu Group, File No. 061 0257," to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room 135-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled "Confidential," and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).[1] The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov*.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC website, to the extent practicable, at *www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments

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

on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Thomas Cohn, Leonard Gordon, or Jonathan Platt (212) 607-2829, Northeast Regional Office, Federal Trade Commission, One Bowling Green, Suite 318, New York, New York 10004.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 4, 2007), on the World Wide Web, at *http://www.ftc.gov/os/2007/06/index.htm*. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the ADDRESSES section above, and must be received on or before the date specified in the DATES section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

I. Introduction

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Order with Rite Aid Corporation ("Rite Aid") and The Jean Coutu Group (PJC), Inc. ("Jean Coutu") (collectively "the Proposed Respondents"). The Agreement is designed to remedy the likely anticompetitive effects arising from Rite Aid's proposed acquisition of the Brooks and Eckerd retail pharmacies from Jean Coutu. The Agreement has been placed on the public record for thirty days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the Agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed Order final.

The purpose of this analysis is to invite public comment on the proposed consent Order. This analysis does not constitute an official interpretation of the agreement and proposed Order, and does not modify the terms in any way. Further, the proposed consent Order has been entered into for settlement purposes only, and does not constitute an admission by the Proposed Respondents that they violated the law or that the facts alleged in the Complaint against the Respondents (other than jurisdictional facts) are true.

On August 23, 2006, Rite Aid entered into a Stock Purchase Agreement whereby Rite Aid would acquire Jean Coutu's Eckerd and Brooks retail pharmacy chains in exchange for approximately $3.5 billion worth of cash and stock. As a result of the transaction, Rite Aid would hold 100% of the common and preferred shares of The Jean Coutu Group USA, Inc., and Jean Coutu would acquire approximately 30% of the voting securities of Rite Aid.

II. Respondents

Respondent Rite Aid, a publicly-traded Delaware corporation, is the third largest retail pharmacy chain in the United States. Rite Aid owns 3,333 stores in the United States, which are primarily located on the East and West Coasts.

Respondent Jean Coutu is a publicly-traded corporation headquartered in Longueuil, Quebec, Canada. Jean Coutu is the parent of The Jean Coutu Group USA, Inc., which owns and operates the Brooks and Eckerd retail pharmacy chains. Jean Coutu currently owns 1,517 Eckerd and 341 Brooks stores, which are located exclusively in the Northeast and Mid-Atlantic regions of the United States. The Jean Coutu stores collectively constitute the fourth largest retail pharmacy chain in the United States.

III. The Complaint

The complaint alleges that the relevant product market in which to analyze the acquisition is the retail sale of pharmacy services to cash customers in local markets. Pharmacy services include the provision of medications by a licensed pharmacist who is able to provide usage advice and other relevant information as may be required by law. Cash customers are consumers of pharmacy services that do not pay a price negotiated by or paid through a third party (such as an insurance plan or a pharmacy benefits manager). Cash customers generally pay the full posted or list price set by a pharmacy for a prescription drug or an amount reflecting a discount off of those prices. The evidence indicates that the sale of pharmacy services to cash customers is a separate market from the sale of pharmacy services to customers covered by third party payors. This is consistent with prior Commission investigations regarding pharmacy services.

The evidence indicates that pricing in the cash prescription market is not constrained by competitive conditions in the third party payor prescription market, nor by mail order pharmacies or discount cards. Cash customers pay prices that are consistently higher than prices on the same drugs paid for by third party payors, and there is a significant disparity in profit margins between sales to cash customers and sales to customers covered by third party payors. Cash customers are most likely unable to purchase health insurance or obtain health benefits from an employer in response to a post-merger price increase for cash prescriptions.

Evidence indicates that cash customers typically do not travel far to fill prescriptions and that pharmacies evaluate competition for cash customers on a localized basis. Therefore, it is appropriate to analyze the competitive effects of the proposed transaction in local geographic markets. The complaint identifies the specific twenty-three relevant geographic markets in which to analyze the effects of the proposed transaction, which include individual towns, cities, boroughs, villages and census-designated areas, or combinations thereof.

The local markets for the retail sale of pharmacy services to cash customers identified in the complaint are highly concentrated. In each of these markets, Rite Aid and Eckerd/Brooks are two of a small number of pharmacies offering cash services, and combined account for at least half, and up to 100 percent, of the pharmacies in the market. Moreover, there is evidence that a significant number of customers view the Rite Aid and Eckerd/Brooks pharmacies in these markets as their first and second choices based on their physical proximity, convenient locations and services offered. Therefore, the complaint alleges that the proposed transaction likely would allow Rite Aid to unilaterally exercise market power, thereby making it likely that cash pharmacy customers would pay higher prices in these areas.

The complaint further alleges that entry would not be timely, likely or sufficient to prevent the anticompetitive effects from the proposed transaction.

Certain specific factors make entry into the twenty-three cash prescription markets unlikely. First, because the vast majority of a pharmacy's profits come from sales other than cash prescriptions, including prescription sales to insured customers and the sale of front-end items (e.g., toothpaste), it is unlikely that an anticompetitive price increase in cash prescription sales would attract new entry. Second, most of the twenty-three markets are small towns or rural areas that may not have a sufficient number of potential customers to support a new pharmacy. Third, opening a new pharmacy requires obtaining zoning, planning and environmental approvals, which can take a significant amount of time. Finally, the limited availability of new pharmacists may serve as an impediment to entry in these areas.

The complaint also alleges that the proposed acquisition, if consummated, may substantially lessen competition in the retail sale of pharmacy services to cash customers in twenty-three local areas, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by eliminating actual, direct, and substantial competition between Proposed Respondents in the relevant markets and by increasing the likelihood that the combined Rite Aid/Brooks-Eckerd will unilaterally exercise market power in the relevant markets, each of which increases the likelihood that the prices of pharmacy services to cash customers will increase, and the quality and selection of such services will decrease.

IV. The Terms of the Agreement Containing Consent Orders

The proposed consent order effectively remedies the proposed acquisition's likely anticompetitive effects in the relevant product markets. Pursuant to the proposed consent order, the Proposed Respondents are required to divest one store in each of the twenty-three geographic areas to a Commission-approved acquiror. Specifically, the proposed consent order requires the proposed Respondents to divest one store in each relevant geographic area to one of five up-front buyers including Kinney Drugs, Medicine Shoppe International, Inc. ("Medicine Shoppe"), Walgreen Co., Big Y, and Weis Markets. Kinney Drugs is an employee-owned company headquartered in New York that has 80 retail drug stores in central and northern New York and Vermont. Medicine Shoppe, headquartered in Missouri, operates 24 company-owned apothecary-style drugs stores and is the franchisor of approximately 1,000 apothecary-style franchised locations throughout the country. Walgreen Co., headquartered in Illinois, is the second largest retail drug store chain in the U.S., operating approximately 5,675 stores in 48 states and Puerto Rico. Big Y is one of New England's largest independent supermarket chains, with more than 50 locations throughout Massachusetts and Connecticut. Weis Markets is a Pennsylvania-based supermarket that operates more than 150 grocery stores, some of which contain pharmacy counters, in Pennsylvania, Maryland, New Jersey, West Virginia, and New York. Each of the up-front buyers is competitively and financially viable and each is well qualified to operate the divested stores. As a result, the required divestitures to these companies will be sufficient to maintain competition in the relevant markets. A list of the specific pharmacies that the Proposed Respondents must divest to each of the up-front buyers is attached as Schedule A to the proposed Decision and Order.

The proposed consent order requires the divestitures to occur no later than twenty days, or, in the case of the divestitures to Medicine Shoppe, no later than forty days after the acquisition is consummated, or four months after the date on which the Proposed Respondents sign the proposed consent order, whichever is earlier. However, if the Proposed Respondents consummate the divestitures to any of the up-front buyers during the public comment period, and if, at the time the Commission decides to make the proposed consent order final, the Commission notifies the Proposed Respondents that any of the up-front buyers is not an acceptable acquirer or that any up-front buyer agreement is not an acceptable manner of divestiture, then the Proposed Respondents must immediately rescind the transaction in question and divest those assets within three months of the date the proposed consent order becomes final. At that time, the Proposed Respondents must divest those assets only to an acquirer, and only in a manner, that receives the prior approval of the Commission.

The proposed consent order also contains an Order to Maintain Assets. This will serve to: (1) Maintain the full economic viability and marketability of the pharmacies identified for divestitures, (2) minimize any risk of loss of competitive potential for such businesses, and (3) prevent the destruction, removal, wasting, deterioration, or impairment of any of these assets except for ordinary wear and tear.

The proposed consent order also gives the Commission the power to appoint a trustee to divest any pharmacies identified in the order that Proposed Respondents have not divested to satisfy the requirements of the order. In addition, the proposed consent order permits the Commission to seek civil penalties against the Proposed Respondents for non-compliance with the order.

For a period of ten years from the date the proposed consent order becomes final, the Proposed Respondents are required to provide written notice to the Commission prior to acquiring any ownership or leasehold interest in any facility that has operated as a pharmacy within the previous six months and is located within five miles of any store to be divested pursuant to the proposed consent order. The ten-year written notice requirement also applies to the acquisition by the Proposed Respondents of any prescription files, stock, share capital, equity, or other interest in any entity that owns any interest in or operates any pharmacy that is located within five miles of any store to be divested pursuant to the proposed consent order and has been in existence as a pharmacy within the previous six months. This provision does not restrict the Proposed Respondents from constructing new pharmacies in the relevant markets; nor does it restrict the Proposed Respondents from leasing facilities not operated as pharmacies within the previous six months.

The proposed consent order further prohibits the Proposed Respondents, for a period of ten years, from entering into or enforcing any agreement that restricts the ability of any person that acquires any pharmacy, any leasehold interest in any pharmacy, or any interest in any retail location used as a pharmacy on or after January 1, 2007 in the relevant markets to operate a pharmacy at that site if such pharmacy was formerly owned or operated by the Proposed Respondents.

The Proposed Respondents are required to provide to the Commission a report of compliance with the proposed consent order within thirty days following the date on which they sign the proposed consent order, every thirty days thereafter until the divestitures are completed, and annually for ten years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E7–11222 Filed 6–8–07: 8:45 am]

BILLING CODE 6750–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Community Partnerships To Eliminate Health Disparities Demonstration Grant Program

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Minority Health.

ACTION: Notice.

Announcement Type: Competitive Initial Announcement of Availability of Funds.

Catalog of Federal Domestic Assistance Number: Community Partnerships to Eliminate Health Disparities Demonstration Grant Program—93.137.

DATES: To receive consideration, applications must be received by the Office of Grants Management, Office of Public Health and Science (OPHS), Department of Health and Human Services (DHHS) c/o WilDon Solutions, Office of Grants Management Operations Center, Attention Office of Minority Health Community Partnerships to Eliminate Health Disparities Demonstration Grant Program, no later than 5 p.m. Eastern Time on July 11, 2007. The application due date requirement in this announcement supersedes the instructions in the OPHS–1 form.

ADDRESSES: Application kits may be obtained electronically by accessing Grants.gov at *http://www.grants.gov* or GrantSolutions at *http://www.GrantSolutions.gov*. To obtain a hard copy of the application kit, contact WilDon Solutions at 1–888–203–6161. Applicants may fax a written request to WilDon Solutions at (703) 351–1138 or e-mail the request to *OPHSgrantinfo@teamwildon.com*. Applications must be prepared using Form OPHS–1 "Grant Application," which is included in the application kit.

FOR FURTHER INFORMATION CONTACT: WilDon Solutions, Office of Grants Management Operations Center, 1515 Wilson Blvd., Third Floor Suite 310, Arlington, VA 22209 at 1–888–203–6161, at e-mail *OPHSgrantinfo@teamwildon.com*, or fax 703–351–1138.

SUMMARY: This announcement is made by the United States Department of Health and Human Services (HHS or Department), Office of Minority Health (OMH) located within the Office of Public Health and Science (OPHS), and working in a "One-Department" approach collaboratively with participating HHS agencies and programs (entities). As part of a continuing HHS effort to improve the health and well being of racial and ethnic minorities, the Department announces availability of FY 2007 funding for the Community Partnerships to Eliminate Health Disparities Demonstration Grant Program (hereafter referred to as the Community Partnerships Program). OMH is authorized to conduct this program under 42 U.S.C. 300u–6, section 1707 of the Public Health Service Act, as amended. The mission of the OMH is to improve the health of racial and ethnic minority populations through the development of policies and programs that address disparities and gaps. OMH serves as the focal point in the HHS for leadership, policy development and coordination, service demonstrations, information exchange, coalition and partnership building, and related efforts to address the health needs of racial and ethnic minorities. OMH activities are implemented in an effort to address Healthy People 2010, a comprehensive set of disease prevention and health promotion objectives for the Nation to achieve over the first decade of the 21st century (*http://www.healthypeople.gov*). This funding announcement is also made in support of the OMH National Partnership for Action initiative. The mission of the National Partnership for Action is to work with individuals and organizations across the country to create a Nation free of health disparities with quality health outcomes for all by achieving the following five objectives: increasing awareness of health disparities; strengthening leadership at all levels for addressing health disparities; enhancing patient-provider communication; improving cultural and linguistic competency in delivering health services; and better coordinating and utilizing research and outcome evaluations.

The Community Partnerships Program is designed to support activities that address, and will subsequently eliminate, racial and ethnic health disparities through community-level activities that promote health, reduce risks, and increase access to and utilization of preventive health care and treatment services. In FY 2007 the Community Partnerships Program will support community-based programs that implement activities through collaborative arrangements among minority serving community-based organizations, health care facilities, and other community entities. This program is intended to ascertain the effectiveness of collaborative community-based interventions, implemented at the grassroots level, on reducing health disparities among racial and ethnic minority populations, and demonstrate the effectiveness of the collaborative partnership approach in:

- Developing, implementing and conducting demonstration projects in high-risk minority communities which coordinate integrated community-based educational screening and outreach services, and include linkages for access, and treatment to minorities in high-risk, low-income communities;
- Reducing social cultural and linguistic barriers to health care; and
- Implementing and/or adapting existing promising practices/model programs for targeted minority communities.

The gap in life expectancy between Black and white Americans has narrowed since 1985, but significant racial and ethnic disparities remain across a wide range of health measures.[1] The *2005 National Healthcare Disparities Report* found that disparities related to race, ethnicity and socioeconomic status continue to pervade the American health care system.[2] The report also states that since the causes of disparities and their prioritization vary across the country, "successfully addressing disparities often requires focused community-based projects that are supported by detailed local data." Eliminating the disproportionate health care disparities is an HHS priority, and the second goal of *Healthy People 2010*. The risk of many diseases and health conditions are reduced through preventative actions. A culture of wellness diminishes debilitating and costly health problems. Individual health care is built on a foundation of responsibility for personal wellness, which includes participating in regular physical activity, eating a healthful diet, taking advantage of medical screenings, and making healthy choices to avoid risky behaviors. Background information on health issue areas in which significant racial/ethnic disparities are documented may be found in Section VIII of this announcement.

SUPPLEMENTARY INFORMATION:

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Section I. Funding Opportunity Description
1. Purpose
2. OMH Expectations
3. Applicant Project Results
4. Project Requirements

[1] Health, United States, 2006, National Center for Health Statistics (NCHS), Hyattsville, MD, November 2006.

[2] National Healthcare Disparities Report, U.S. Department of Health and Human Services, Agency for Health Care Research and Quality (AHRQ), Rockville, MD, December 2005.

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Section I. Funding Opportunity Description

Authority: This program is authorized under 42 U.S.C. 300u–6, section 1707 of the Public Health Service Act, as amended.

1. Purpose

The purpose of the Community Partnerships to End Health Disparities Demonstration Grant Program is to improve the health status of targeted minority populations (see definition of minority populations in Section VIII.3 of this announcement) by eliminating disparities. Through this FY 2007 announcement, the OMH is continuing to promote the utilization of community partnerships with locally grounded, grassroots organizations to develop and/or implement promising practices and model programs targeting minority communities that focus on: Health education promotion, disease risk reduction and increased access to and utilization of preventive health care and treatment services. Support will be provided to projects that emphasize prevention, one of the HHS priorities. The risks of many diseases and health conditions are reduced through preventative actions.

2. OMH Expectations

It is intended that the Community Partnerships Program will result in:

- Increased awareness of risk factors, and health promoting behaviors;
- Reduction in high-risk behaviors; and
- Improved access to health care for hardly reached minority populations.

3. Applicant Project Results

Applicants must identify 3 of the 5 following anticipated project results that are consistent with the Community Partnerships Program overall and OMH expectations:

- Increasing awareness of health disparities;
- Strengthening leadership at all levels for addressing health disparities;
- Improving patient-provider interaction;
- Improving cultural and linguistic competency; and/or
- Improving coordination and utilization of research and outcome evaluations.

The outcomes of these projects will be used to develop other national efforts to address health disparities among racial and ethnic minority populations.

4. Project Requirements

Each applicant under the Community Partnership Program must:

- Implement the project using a collaborative partnership arrangement of community-based organizations that will coordinate outreach, screening and education efforts and provide referrals and follow-up for treatment. The partnership must have the capacity to:
- Plan and coordinate services which reduce existing sociocultural and/or linguistic barriers to health care; and
- Carry out screening, outreach, education, and enabling services to ensure that clients follow-up with treatment and treatment referrals.
- Identify problems such as gaps in services or issues, such as access to health care, affecting the targeted health area to be addressed by the proposed project.
- Identify existing resources in the targeted health area which will be linked to the proposed project.
- Ensure that health promotion and education outreach activities are linguistically, culturally and age appropriate.
- Identify 3 of the 5 anticipated applicant project results for the project (listed above).
- Address at least 1, but no more than 3 of the identified health areas (see Section 5 below).

5. Health Areas to be Addressed

The activities and interventions implemented under Community Partnerships Program may target the racial and ethnic disparities in 1 but no more than 3 of the following ten (10) health areas:

- Asthma (among children and adolescents aged 1 to 19)
- Cancer
- Diabetes
- Heart Disease & Stroke
- Hepatitis B
- HIV
- Immunization (adult and child)
- Infant Mortality
- Mental Health
- Obesity & Overweight (among children and adolescents aged 1 to 19)

Section II. Award Information

Estimated Funds Available for Competition: $5,850,000 in FY 2007 (Grant awards are subject to the availability of funds.)

Anticipated Number of Awards: 23–29.

Range of Awards: $200,000 to $250,000 per year.

Anticipated Start Date: September 1, 2007.

Period of Performance: 3 Years (September 1, 2007 to August 31, 2010).

Budget Period Length: 12 months.

Type of Award: Grant.

Type of Application Accepted: New, Competing Continuation.

Section III. Eligibility Information

1. Eligible Applicants

To qualify for funding, an applicant must:

- Be a private nonprofit, community-based, minority-serving organization which addresses health or human services (see definitions); or be a public (local or tribal government) community-based organization which addresses health or human services; and
- Represent a collaborative partnership, consisting of at least three discrete organizations, that includes:

—A community-based, minority-serving organization (applicant);
—A health care facility (e.g., community health center, migrant health center, health department or medical center); and
—Another community entity (e.g., social service agency, business entity, educational institution, or civic association).

The partnership must be documented through a single signed Memorandum of Agreement (MOA) between the community-based minority serving organization (applicant), the health care facility and the other community entity. Each member of the partnership must have a specific, significant role in conducting the proposed project. The MOA must specify in detail the roles and resources that each entity will bring to the project, and the terms of the agreement. The MOA must cover the entire project period. The MOA must be signed by individuals with the authority to obligate the organization (e.g.,

president, chief executive officer, executive director).

Other entities that meet the definition of private non-profit community-based, minority-serving organization and the above criteria that are eligible to apply are:

- Faith-based organizations.
- Tribal organizations.
- Local affiliates of national, state-wide, or regional organizations.

National, state-wide, and regional organizations may not apply for these grants. As the focus of the program is at the local, grassroots level, OMH is looking for entities that have ties to the local community. National, state-wide, and regional organizations operate on a broader scale and are not as likely to effectively access the targeted minority population in the specific, local neighborhood and communities.

The organization submitting the application will:

- Serve as the lead agency for the project, responsible for its implementation and management; and
- Serve as the fiscal agent for the Federal grant awarded.

2. Cost Sharing or Matching

Matching funds are not required for the Community Partnerships Program.

3. Other

Organizations applying for funds under the Community Partnerships Program must submit documentation of nonprofit status with their applications. If documentation is not provided, the application will be considered non-responsive and will not be entered into the review process. The organization will be notified that the application did not meet the submission requirements.

Any of the following serves as acceptable proof of nonprofit status:

- A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS Code.
- A copy of a currently valid IRS tax exemption certificate.
- A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a nonprofit status and that none of the net earnings accrue to any private shareholders or individuals.
- A certified copy of the organization's certificate of incorporation or similar document that clearly establishes nonprofit status.

For local, nonprofit affiliates of state or national organizations, a statement signed by the parent organization indicating that the applicant organization is a local nonprofit affiliate must be provided in addition to any one of the above acceptable proof of nonprofit status.

If funding is requested in an amount greater than the ceiling of the award range, the application will be considered non-responsive and will not be entered into the review process. The application will be returned with notification that it did not meet the submission requirements.

Applications that are not complete or that do not conform to or address the criteria of this announcement will be considered non-responsive and will not be entered into the review process. The application will be returned with notification that it did not meet the submission requirements.

An organization may submit no more than one application to the Community Partnerships Program. Organizations submitting more than one proposal for this grant program will be deemed ineligible. The multiple proposals from the same organization will be returned without comment.

Organizations are not eligible to receive funding from more than one OMH grant program to carry out the same project and/or activities.

Section IV.Application and Submission Information

1. Address To Request Application Kit

Application kits for the Community Partnerships to Eliminate Health Disparities Demonstration Grant Program may be obtained by accessing Grants.gov at *http://www.grants.gov* or the GrantSolutions system at *http://www.grantsolutions.gov*. To obtain a hard copy of the application kit for this grant program, contact WilDon Solutions at 1–888–203–6161. Applicants may also fax a written request to WilDon Solutions at (703) 351–1138 or e-mail the request to *OPHSgrantinfo@teamwildon.com*. Applications must be prepared using Form OPHS–1, which can be obtained at the Web sites noted above.

2. Content and Form of Application Submission

A. Application and Submission

Applicants must use Grant Application Form OPHS–1 and complete the Face Page/Cover Page (SF 424), Checklist, and Budget Information Forms for Non-Construction Programs (SF 424A). In addition, the application must contain a project narrative. The project narrative (including summary and appendices) is limited to 75 pages double-spaced. For those organizations that previously received funding under the OMH-supported Community Programs to Improve Minority Health, in addition to the project narrative, you must attach a report on that program and its results. This report is limited to 15 pages double-spaced, which do not count against the project narrative page limitation.

The narrative description of the project must contain the following, in the order presented:

- Table of Contents.
- Project Summary (Overview): Briefly describe key aspects of the Background, Objectives, Program Plan, and Evaluation Plan. The summary is limited to 3 pages.
- Program Narrative
- Background:

—*Statement of Need:* Identify which of the health issue areas (up to 3) are being addressed. Describe and document, with data, demographic information on the targeted local geographic area, and the significance or prevalence of health problem(s) or issue(s) affecting the local target minority group(s). Describe the local minority group(s) targeted by the project (*e.g.*, race/ethnicity, age, gender, educational level/income).

—*Experience:* Describe the applicant organization's background, and the background/experience of all coalition member organizations. Provide a rationale for inclusion of the coalition member organizations in the project. Describe any similar projects implemented to work with the targeted population and the results of those projects. (For those institutions that previously received funding under the OMH-supported Community Programs to Improve Minority Health, you must attach a report on that specific project and its results.)

—Discuss the applicant organization's experience in managing projects/activities, especially those targeting the population to be served. Indicate where the project will be located within the applicant organization's structure and the reporting channels. Provide a chart of the proposed project's organizational structure, showing who will report to whom. Describe how the partner organizations will interface with the applicant organization.

- *Objectives:* Provide objectives stated in measurable terms including baseline data, improvement targets, and time frames for achievement for the three-year project period. Explain how the state objectives relate to the expected results of the project
- *Program Plan:* Provide a plan which clearly describes how the project

will be carried out. Describe specific activities and strategies planned to achieve each objective. For each activity, describe how, when, where, by whom, and for whom the activity will be conducted. Include the role of each coalition member organization. Provide a description of the proposed program staff, including resumes and job descriptions for key staff, qualifications and responsibilities of each staff member, and percent of time each will commit to the project. Provide a description of duties for any proposed consultants. Describe any products to be developed by the project. Provide a time line for each year of the three-year project period.

• *Evaluation Plan:* Delineate how program activities will be evaluated. The evaluation plan must clearly articulate how the project will be evaluated to determine if the intended results have been achieved. The evaluation plan must describe, for all funded activities:

—Intended results (i.e., impacts and outcomes);
—how impacts and outcomes will be measured (i.e. what indicators or measures will be used to monitor and measure progress toward achieving project results);
—methods for collecting and analyzing data on measures;
—evaluation methods that will be used to assess impacts and outcomes;
—evaluation expertise that will be available for this purpose;
—how results are expected to contribute to the objectives of the Program as a whole, and Healthy People 2010 goals and objectives; and
—the potential for replicating the evaluation methods for similar efforts.

Discuss plans and describe the vehicle (e.g., manual, CD) that will be used to document the steps which others may follow to replicate the proposed project in similar communities. Describe plans for disseminating project results to other communities.

• *Appendices:* Include MOAs and other relevant information in this section.

If required, attach a report on the project and outcomes supported under the Community Programs to Improve Minority Health (does not count against page limitation).

In addition to the project narrative, the application must contain a detailed budget justification which includes a narrative explanation and indicates the computation of expenditures for each year for which grant support is requested. The budget request must include funds for key project staff to attend an annual OMH grantee meeting. (The budget justification does not count toward the page limitation.)

B. Data Universal Numbering System number (DUNS)

Applications must have a Dun & Bradstreet (D&B) Data Universal Numbering System number as the universal identifier when applying for Federal grants. The D&B number can be obtained by calling (866) 705–5711 or through the Web site at *http://www.dnb.com/us/*.

3. Submission Dates and Times

To be considered for review, applications must be received by the Office of Public Health and Science, Office of Grants Management, c/o WilDon Solutions, by 5 p.m. Eastern Time on July 11, 2007. Applications will be considered as meeting the deadline if they are received on or before the deadline date. The application due date requirement in this announcement supercedes the instructions in the OPHS–1 form.

Submission Mechanisms

The Office of Public Health and Science (OPHS) provides multiple mechanisms for the submission of applications, as described in the following sections. Applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of applications submitted using any of these mechanisms. Applications submitted to the OPHS Office of Grants Management after the deadlines described below will not be accepted for review. Applications which do not conform to the requirements of the grant announcement will not be accepted for review and will be returned to the applicant.

While applications are accepted in hard copy, the use of the electronic application submission capabilities provided by the Grants.gov and GrantSolutions.gov systems is encouraged. Applications may only be submitted electronically via the electronic submission mechanisms specified below. Any applications submitted via any other means of electronic communication, including facsimile or electronic mail, will not be accepted for review.

In order to apply for new funding opportunities which are open to the public for competition, you may access the Grants.gov Web site portal. All OPHS funding opportunities and application kits are made available on Grants.gov. If your organization has/had a grantee business relationship with a grant program serviced by the OPHS Office of Grants Management, and you are applying as part of ongoing grantee related activities, please access GrantSolutions.gov.

Electronic grant application submissions must be submitted no later than 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement using one of the electronic submission mechanisms specified below. All required hardcopy original signatures and mail-in items must be received by the OPHS Office of Grants Management, c/o WilDon Solutions, no later than 5 p.m. Eastern Time on the next business day after the deadline date specified in the **DATES** section of the announcement.

Applications will not be considered valid until all electronic application components, hardcopy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Application submissions that do not adhere to the due date requirements will be considered late and will be deemed ineligible. Applicants are encouraged to initiate electronic applications early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submissions prior to the application deadline.

Electronic Submissions via the Grants.gov Web site Portal

The Grants.gov Web site Portal provides organizations with the ability to submit applications for OPHS grant opportunities. Organizations must successfully complete the necessary registration processes in order to submit an application. Information about this system is available on the Grants.gov Web site, *http://www.grants.gov*.

In addition to electronically submitted materials, applicants may be required to submit hard copy signatures for certain Program related forms, or original materials as required by the announcement. It is imperative that the applicant review both the grant announcement, as well as the application guidance provided within the Grants.gov application package, to determine such requirements. Any required hard copy materials, or documents that require a signature, must be submitted separately via mail to the OPHS Office of Grants Management, c/o WilDon Solutions, and if required, must contain the original signature of an individual authorized to act for the applicant agency and the obligations imposed by the terms and conditions of the grant award. When submitting the

required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Electronic applications submitted via the Grants.gov Web site Portal must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. All required mail-in items must received by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Upon completion of a successful electronic application submission via the Grants.gov Web site Portal, the applicant will be provided with a confirmation page from Grants.gov indicating the date and time (Eastern Time) of the electronic application submission, as well as the Grants.gov Receipt Number. It is critical that the applicant print and retain this confirmation for their records, as well as a copy of the entire application package.

All applications submitted via the Grants.gov Web site Portal will be validated by Grants.gov. Any applications deemed "Invalid" by the Grants.gov Web site Portal will not be transferred to the GrantSolutions system, and OPHS has no responsibility for any application that is not validated and transferred to OPHS from the Grants.gov Web site Portal. Grants.gov will notify the applicant regarding the application validation status. Once the application is successfully validated by the Grants.gov Web site Portal, applicants should immediately mail all required hard copy materials to the OPHS Office of Grants Management, c/o WilDon Solutions, to be received by the deadlines specified above. It is critical that the applicant clearly identify the Organization name and Grants.gov Application Receipt Number on all hard copy materials.

Once the application is validated by Grants.gov, it will be electronically transferred to the GrantSolutions system for processing. Upon receipt of both the electronic application from the Grants.gov Web site Portal, and the required hardcopy mail-in items, applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of the application submitted using the Grants.gov Web site Portal.

Applicants should contact Grants.gov regarding any questions or concerns regarding the electronic application process conducted through the Grants.gov Web site Portal.

Electronic Submissions via the GrantSolutions System

OPHS is a managing partner of the GrantSolutions.gov system. GrantSolutions is a full life-cycle grants management system managed by the Administration for Children and Families, Department of Health and Human Services (HHS), and is designated by the Office of Management and Budget (OMB) as one of the three Government-wide grants management systems under the Grants Management Line of Business initiative (GMLoB). OPHS uses GrantSolutions for the electronic processing of all grant applications, as well as the electronic management of its entire Grant portfolio.

When submitting applications via the GrantSolutions system, applicants are required to submit a hard copy of the application face page (Standard Form 424) with the original signature of an individual authorized to act for the applicant agency and assume the obligations imposed by the terms and conditions of the grant award. If required, applicants will also need to submit a hard copy of the Standard Form LLL and/or certain Program related forms (e.g., Program Certifications) with the original signature of an individual authorized to act for the applicant agency. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Electronic applications submitted via the GrantSolutions system must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. The applicant may identify specific mail-in items to be sent to the Office of Grants Management separate from the electronic submission; however these mail-in items must be entered on the GrantSolutions Application Checklist at the time of electronic submission, and must be received by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Upon completion of a successful electronic application submission, the GrantSolutions system will provide the applicant with a confirmation page indicating the date and time (Eastern Time) of the electronic application submission. This confirmation page will also provide a listing of all items that constitute the final application submission including all electronic application components, required hardcopy original signatures, and mail-in items, as well as the mailing address of the OPHS Office of Grants Management where all required hard copy materials must be submitted.

As items are received by the OPHS Office of Grants Management, the electronic application status will be updated to reflect the receipt of mail-in items. It is recommended that the applicant monitor the status of their application in the GrantSolutions system to ensure that all signatures and mail-in items are received.

Mailed or Hand-Delivered Hard Copy Applications

Applicants who submit applications in hard copy (via mail or hand-delivered) are required to submit an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. Mailed or hand-delivered applications will be considered as meeting the deadline if they are received by the OPHS Office of Grant Management, c/o WilDon Solutions, on or before 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement. The application deadline date requirement specified in this announcement supersedes the instructions in the OPHS–1. Applications that do not meet the deadline will be returned to the applicant unread.

4. Intergovernmental Review

The Community Partnerships Program is subject to requirements of Executive Order 12372 which allows States the options of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kits available under this notice will contain a list of States which have chosen to set up a review system and will include a State Single Point of Contact (SPOC) in the State for review. The SPOC list is also available on the Internet at the following address: *http://*

www.whitehouse.gov/omb/grants/spoc.html. Applicants (other than federally recognized Indian tribes) should contact their SPOC as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. The due date for State process recommendations is 60 days after the application deadlines established by the OPHS Grants Management Officer. The OMH does not guarantee that it will accommodate or explain its responses to State process recommendations received after that date. (See "Intergovernmental Review of Federal Programs," Executive Order 12372, and 45 CFR Part 100 for a description of the review process and requirements.)

The Community Partnerships Program is subject to Public Health Systems Reporting Requirements. Under these requirements, community-based non-governmental applicants must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local officials to keep them apprised of proposed health services grant applications submitted by community-based organizations within their jurisdictions.

Community-based non-governmental applicants are required to submit, no later than the Federal due date for receipt of the application, the following information to the head of the appropriate State or local health agencies in the area(s) to be impacted: (a) A copy of the face page of the application (SF 424), and (b) a summary of the project (PHSIS), not to exceed one page, which provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with the appropriate State or local health agencies. Copies of the letter forwarding the PHSIS to these authorities must be contained in the application materials submitted to the OPHS.

5. Funding Restrictions

Budget Request: If funding is requested in an amount greater than the ceiling of the award range, the application will be considered non-responsive and will not be entered into the review process. The application will be returned with notification that it did not meet the submission requirements.

Grants funds may be used to cover costs of:

- Personnel.
- Consultants.
- Equipment.
- Supplies (including screening and outreach supplies).
- Grant-related travel (domestic only), including attendance at an annual OMH grantee meeting.
- Other grant-related costs.

Grants funds may not be used for:

- Building alterations or renovations.
- Construction.
- Fund raising activities.
- Job training.
- Medical care, treatment or therapy.
- Political education and lobbying.
- Research studies involving human subjects.
- Vocational rehabilitation.

Guidance for completing the budget can be found in the Program Guidelines, which are included with the complete application kit.

Section V. Application Review Information

1. Criteria

The technical review of the Community Partnerships Program applications will consider the following four generic factors listed, in descending order of weight.

A. Factor 1: Program Plan (40%)

—Appropriateness and merit of proposed approach and specific activities for each objective.
—Logic and sequencing of the planned approaches as they relate to the statement of need and to the objectives.
—Soundness of the established coalition and member roles in the program.
—Qualifications and appropriateness of proposed staff or requirements for "to be hired" staff and consultants.
—Proposed staff level of effort.
—Appropriateness of defined roles including staff reporting channels and that of any proposed consultants.

B. Factor 2: Evaluation Plan (25%)

—The degree to which intended results are appropriate for the objectives of the Community Partnerships Program overall, stated objectives of the proposed project and proposed activities.
—Appropriateness of the proposed methods for data collection (including demographic data to be collected on project participants), analysis and reporting.
—Suitability of process, outcome, and impact measures.
—Clarity of the intent and plans to assess and document progress towards achieving objectives, planned activities, and intended outcomes.
—Potential for the proposed project to impact the health status of the target population(s) relative to the health areas addressed.
—Soundness of the plan to document the project for replicability in similar communities.
—Soundness of the plan to disseminate project results.

C. Factor 3: Background (20%)

—Demonstrated knowledge of the problem at the local level.
—Significance and prevalence of targeted health issues in the proposed community and target population(s).
—Extent to which the applicant demonstrates access to the target community(ies), and whether it is well positioned and accepted within the community(ies) to be served.
—Extent and documented outcome of past efforts and activities with the target population.
—Applicant's capability to manage and evaluate the project as determined by:

- The applicant organization's experience in managing project/activities involving the target population.
- The applicant's organizational structure and proposed project organizational structure.
- Clear lines of authority among and between coalition member organizations.

—If applicable, the extent and documented outcome(s) of activities conducted under the OMH-supported Community Programs to Improve Minority Health included in the required progress report.

D. Factor 4: Objectives (15%)

—Merit of the objectives.
—Relevance to Healthy People 2010 and National Partnership for Action objectives.
—Relevance to the Community Partnerships Program purpose and expectations, and to the stated problem to be addressed by the proposed project.
—Degree to which the objectives are stated in measurable terms.
—Attainability of the objectives in the stated time frames.

2. Review and Selection Process

Accepted Community Partnerships Program applications will be reviewed for technical merit in accordance with PHS policies. Applications will be evaluated by an Objective Review Committee (ORC). Committee members are chosen for their expertise in minority health and health disparities, and their understanding of the unique health problems and related issues confronted by the racial and ethnic minority populations in the United States. Funding decisions will be determined by the Deputy Assistant

Secretary for Minority Health who will take under consideration:

- The recommendations and ratings of the ORC.
- Geographic distribution of applicants.
- A balanced distribution of populations to be served.
- The health areas addressed.

3. Anticipated Award Date

September 1, 2007.

Section VI. Award Administration Information

1. Award Notices

Successful applicants will receive a notification letter from the Deputy Assistant Secretary for Minority Health and a Notice of Grant Award (NGA), signed by the OPHS Grants Management Officer. The NGA shall be the only binding, authorizing document between the recipient and the Office of Minority Health. Unsuccessful applicants will receive notification from OPHS.

2. Administrative and National Policy Requirements

In accepting this award, the grantee stipulates that the award and any activities thereunder are subject to all provisions of 45 CFR parts 74 and 92, currently in effect or implemented during the period of the grant.

The DHHS Appropriations Act requires that, when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees shall clearly state the percentage and dollar amount of the total costs of the program or project which will be financed with Federal money and the percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

3. Reporting Requirements

A successful applicant under this notice will submit: (1) Semi-annual progress reports; (2) an Annual Financial Status Report; and (3) a final progress report and Financial Status Report in the format established by the OMH, in accordance with provisions of the general regulations which apply under "Monitoring and Reporting Program Performance," 45 CFR part 74.51–74.52, with the exception of State and local governments to which 45 CFR part 92, Subpart C reporting requirements apply.

Uniform Data Set: The Uniform Data Set (UDS) is a Web-based system used by OMH grantees to electronically report progress data to OMH. It allows OMH to more clearly and systematically link grant activities to OMH-wide goals and objectives, and document programming impacts and results. All OMH grantees are required to report program information via the UDS (*http://www.dsgonline.com/omh/uds*). Training will be provided to all new grantees on the use of the UDS system during the annual grantee meeting.

Grantees will be informed of the progress report due dates and means of submission. Instructions and report format will be provided prior to the required due date. The Annual Financial Status Report is due no later than 90 days after the close of each budget period. The final progress report and Financial Status Report are due 90 days after the end of the project period. Instructions and due dates will be provided prior to required submission.

Section VII. Agency Contacts

For application kits, submission of applications, and information on budget and business aspects of the application, please contact: WilDon Solutions, Office of Grants Management Operations Center, 1515 Wilson Blvd., Third Floor Suite 310, Arlington, VA 22209 at 1–888–203–6161, e-mail *OPHSgrantinfo@teamwildon.com,* or fax 703–351–1138.

For questions related to the Community Programs to Improve Minority Health or assistance in preparing a grant proposal, contact Ms. Sonsiere Cobb-Souza, Acting Director, Division of Program Operations, Office of Minority Health, Tower Building, Suite 600, 1101 Wootton Parkway, Rockville, MD 20852. Ms. Cobb-Souza can be reached by telephone at (240) 453–8444; or by e-mail at *sonsiere.cobb-souza@hhs.gov*.

For additional technical assistance, contact the OMH Regional Minority Health Consultant for your region listed in your grant application kit.

For health information, call the OMH Resource Center (OMHRC) at 1–800–444–6472.

Section VIII. Other Information

1. Background Information

Many aspects of health in the U.S. have improved; however, significant racial and ethnic disparities remain. The prevalence of overweight in 2003–04 was significantly higher among Hispanic and Black children than white children, and approximately 45 percent of Black and 37 percent of Hispanic adults were obese compared to 30 percent of whites.[3] American Indians/Alaska Natives are 2.2 times as likely to have diabetes than whites, and Blacks are 1.8 times as likely to have the disease.[4] The rates of hepatitis B have declined among all racial ethnic groups; however, rates were highest among non-Hispanic Blacks in 2004.[5] According to data from the CDC, 50 percent of adults and adolescents diagnosed with HIV/AIDS in 2004 were Black (13 percent of population), 18 percent were Hispanic (12.5 percent of population), and 1 percent were American Indian/Alaska Native (.7 percent of population). In 2005, 18.1 percent of Native American/Alaska Natives reported frequent mental distress (14 or more mentally unhealthy days) compared to 9.6 percent of whites.[6] Higher percentages of Blacks (11.8) and Hispanics (10.2) also reported frequent mental distress than whites. American Indians/Alaska Natives also had the highest prevalence of asthma in 2002, when 11.6 percent of that population reported having asthma compared to 7.6 percent of whites.[7]

In 2002, American Indian/Alaska Native women had the lowest cancer incidence rate, yet the third highest cancer death rate. Breast cancer was the leading cause of cancer death among Hispanic women. Black men and women had the highest cancer death rates for all cancers among all races.[8] Heart disease is the leading cause of death for men and women in the U.S.; the 2002 age-adjusted death rates for diseases of the heart were 30 percent higher among Blacks than whites. The mortality rates for infants of Black (13.6), American Indian/Alaska Native (8.7), and Puerto Rican (8.2) mothers all exceeded the rate for infants of white mothers (5.7) in 2003.[9]

2. Healthy People 2010

The Public Health Service (PHS) is committed to achieving the health promoting and disease prevention objectives of Healthy People 2010, a PHS-led national activity announced in January 2000 to eliminate health disparities and improve years and

[3] 2004 Fact Sheet—Obesity Still a Major Problem, New Data Show, NCHS, Hyattsville, MD 2006.

[4] American Diabetes Association, Web site, November 27, 2006 *http://www.diabetes.org/diabetes-statistics/prevalance.jsp*.

[5] Centers for Disease Control and Prevention. Hepatitis Surveillance Report No. 61. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, 2006.

[6] Health Related Quality of Life Survey, CDC, National Center for Chronic Disease Prevention and Health Promotion, 2006.

[7] Asthma Prevalence and Control Characteristics by Race/Ethnicity—United States, 2002, MMWR Weekly, February 27, 2004, CDC.

[8] United States Cancer Statistics: 1999–2002 Incidence and Mortality Web-based Report, U.S. Cancer Statistics Working Group, CDC and Naitonal Cancer Institute, Atlanta, GA 2005.

[9] Health United States, 2006.

quality of life. More information may be found on the Healthy People 2010 Web site: *http://www.healthypeople.gov/* and copies of the documents may be downloaded. Copies of the Healthy People 2010: Volumes I and II can be purchased by calling (202) 512–1800 (cost $70 for printed version; $20 for CD–ROM). Another reference is the Healthy People 2010 Final Review–2001.

For one free copy of the Healthy People 2010, contact: The National Center for Health Statistics, Division of Data Services, 3311 Toledo Road, Hyattsville, MD 20782, or by telephone at (301) 458–4636. Ask for HHS Publication No. (PHS) 99–1256. This document may also be downloaded from: *http://www.healthypeople.gov.*

3. Definitions

For purposes of this announcement, the following definitions apply:

Community-Based Organizations—Private, nonprofit organizations *and* public organizations (local or tribal governments) that are representative of communities or significant segments of communities where the control and decisionmaking powers are located at the community level.

Community-Based Minority-Serving Organization—A community-based organization that has a demonstrated expertise and experience in serving racial/ethnic minority populations (See definition of Minority Populations below.)

Community Partnership—At least 3 discrete organizations and institutions in a given community which work together on specific community concerns, and seek resolution of those concerns through formalized relationship documented by written memoranda of understanding/agreement signed by individuals with the authority to obligate the organizations (e.g., chief executive officer, executive director, president/chancellor) is required.

Health Care Facility—A private nonprofit or public facility that has an established record for providing comprehensive health care services to a targeted, racial/ethnic minority community.

A health care facility may be a hospital, outpatient medical facility, community health center, migrant health center, or a mental health center. Facilities providing only screening and referral activities are not included in this definition.

Intervention—A combination of services designed to alter or modify a condition or outcome, or to change behavior to reduce the likelihood of a preventable health problem occurring or progressing further. Services include:

- Clinical prevention services (e.g., blood pressure screening);
- information dissemination;
- environmental modifications;
- educational activities; and
- coordinated networking activities among health and human service related programs (e.g., referral for child care services, job placement, literacy programs).

Memorandum of Agreement (MOA)—A single document signed by authorized representatives of each community partnership member organization which details the roles and resources each entity will provide for the project and the terms of the agreement (must cover the entire project period).

Minority Populations—American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, and Native Hawaiian or Other Pacific Islander. (42 U.S.C. 300u–6, section 1707 of the Public Health Service Act, as amended.)

Nonprofit Organizations—Corporations or associations, no part of whose net earnings may lawfully inure to the benefit of any private shareholder or individual. Proof of nonprofit status must be submitted by private nonprofit organizations with the application or, if previously filed with PHS, the applicant must state where and when the proof was submitted. (See III, 3. Other, for acceptable evidence of nonprofit status.)

Sociocultural Barriers—Policies, practices, behaviors and beliefs that create obstacles to health care access and service delivery. Examples of sociocultural barriers include:

- Cultural differences between individuals and institutions.
- Cultural differences of beliefs about health and illness.
- Customs and lifestyles.
- Cultural differences in languages or nonverbal communication styles.

Dated: June 5, 2007.

Garth N. Graham,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 07–2894 Filed 6–08–07; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Funding Opportunity Title: Announcement of Anticipated Availability of Funds for Family Planning Services Grants

AGENCY: Department of Health and Human Services, Office of Public Health and Science, Office of Population Affairs.

ACTION: Notice.

Announcement Type: Initial Competitive Grant.

CFDA Number: 93.217.

Authority: Section 1001 of the Public Health Service Act.

DATES: Application due dates vary. To receive consideration, applications must be received by the Office of Public Health and Science (OPHS), Office of Grants Management (OGM) no later than the applicable due date listed in Table I of this announcement (Section IV. 3, *Submission Dates and Times*) and within the time frames specified in this announcement for electronically submitted, mailed, and/or hand-delivered hard copy applications. Executive Order 12372 comment due date: The State Single Point of Contact (SPOC) has 60 days from the applicable due date as listed in Table I of this announcement to submit any comments.

ADDRESSES: Application kits may be obtained electronically by accessing Grants.gov at *http://www.grants.gov* or GrantSolutions at *www.GrantSolutions.gov.* To obtain a hard copy of the application kit, contact the OPHS Office of Grants Management, at 240–453–8822. Applicants may fax a written request to OPHS Office of Grants Management 240–453–8823. Applications must be prepared using Form OPHS–1 "Grant Application," which is included in the application kit.

FOR FURTHER INFORMATION CONTACT: OPHS Office of Grants Management, 1101 Wootton Parkway, Suite 550, Rockville, MD 20853 at 240–453–8822, or fax 240–453–8822.

SUMMARY: The Office of Population Affairs (OPA), Office of Family Planning (OFP), announces the anticipated availability of funds for Fiscal Year (FY) 2008 family planning services grants under the authority of Title X of the Public Health Service Act. This notice solicits applications for competing grant awards to serve the areas and/or populations listed in Table I. Only applications which propose to serve the areas and/or populations listed in Table I will be accepted for review and possible funding.

I. Funding Opportunity Description

This announcement seeks applications from public and nonprofit private entities to establish and operate voluntary family planning services projects, which shall provide family planning services to all persons desiring such services. Family planning services include clinical family planning and related preventive health services; information, education, and counseling

related to family planning; and, referral services as indicated.

Applicants should use the Title X legislation, applicable regulations, Program Guidelines, legislative mandates, Program Priorities, and other Key Issues included in this announcement and in the application kit, to guide them in developing their applications.

Program Statute, Regulations, Guidelines, Legislative Mandates, Program Priorities, and Key Issues

Title X Statute and Regulations: Requirements regarding the provision of family planning services under Title X can be found in the statute (Title X of the Public Health Service Act, 42 U.S.C. 300, *et seq.*) and in the implementing regulations which govern project grants for family planning services (42 CFR part 59, subpart A). In addition, sterilization of clients as part of the Title X program must be consistent with 42 CFR part 50 subpart B, ("Sterilization of Persons in Federally Assisted Family Planning Projects"). Title X of the Public Health Service Act authorizes the Secretary of Health and Human Services (HHS) to award grants for projects to provide family planning services to any person desiring such services, with priority given to individuals from low-income families. Section 1001 of the Act, as amended, authorizes grants "to assist in the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents)." Title X regulations further specify that "These projects shall consist of the educational, comprehensive medical, and social services necessary to aid individuals to determine freely the number and spacing of their children" (42 CFR 59.1). In addition, section 1001 of the statute requires that, to the extent practicable, Title X service providers shall encourage family participation in family planning services projects. Section 1008 of the Act, as amended, stipulates that "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning."

Legislative Mandates: The following legislative mandates have been part of the Title X appropriations language for each of the last several years. Title X family planning services projects should include administrative, clinical, counseling, and referral services necessary to ensure adherence to these requirements.

"None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities;" and

"Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest."

Program Guidelines: Additional operational guidance for projects funded under Title X can be found in the "Program Guidelines for Project Grants for Family Planning Services" (January 2001). These Program Guidelines are included in the application kit for this announcement.

Copies of the Title X statute, regulations, legislative mandates, and Program Guidelines may be obtained by contacting the Office of Public Health and Science (OPHS) Office of Grants Management, or may be downloaded from the Office of Population Affairs Web site at *http://opa.osophs.dhhs.gov.* These documents are also included in the application kit. All activities funded under this announcement must be consistent with the Title X statute, regulations, legislative mandates, and Program Guidelines. For example, projects must meet the regulatory requirements set out at 42 CFR 59.5 regarding charges to clients. The funding criteria set out at 42 CFR 59.7 apply to all applicants under this announcement.

Program Priorities: Each year the OFP establishes program priorities that represent overarching goals for the Title X program. Project plans should be developed that address 2008 Title X program priorities, and should provide evidence of the project's capacity to address program priorities they evolve in future years. The 2008 program priorities are as follows:

1. Assuring ongoing high quality family planning and related preventive health services that will improve the overall health of individuals, with priority for services to individuals from low-income families;

2. Assuring access to a broad range of acceptable and effective family planning methods and related preventive health services that include natural family planning methods, infertility services, and services for adolescents; highly effective contraceptive methods; breast and cervical cancer screening and prevention services that correspond with nationally recognized standards of care; STD and HIV prevention education, counseling, testing, and referral; adolescent abstinence counseling; and other preventive health services. The broad range of services does not include abortion as a method of family planning;

3. Assuring compliance with State laws requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest;

4. Encouraging participation of families, parents, and/or legal guardians in the decision of minors to seek family planning services; and providing counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities;

5. Addressing the comprehensive family planning and other health needs of individuals, families, and communities through outreach to hard-to-reach and/or vulnerable populations, and partnering with other community-based health and social service providers that provide needed services.

Key Issues: In addition to the Program Priorities, the following key issues have implications for Title X services projects, and should be considered in developing the program plan:

1. Cost of contraceptives and other pharmaceuticals;

2. Efficiency and effectiveness in program management and operations;

3. Management and decision-making through performance measures and accountability for outcomes;

4. Linkages and partnerships with community-based and faith-based organizations;

5. Addressing CDC's "Revised Recommendations for HIV Testing of Adults,

Adolescents, and Pregnant Women in Health Care Settings," and incorporating "ABC" concepts for HIV prevention counseling (that is, "A" for extramarital abstinence; "B" for be faithful in marriage or committed relationships; and, "C" for correct and consistent condom use. For individuals at increased risk for contracting or transmitting HIV, the message should include "A," "B," and "C";

6. The use of electronic technologies, such as electronic grants management capabilities, electronic health information infrastructures, electronic access to health quality information, and similar electronic systems;

7. Data collection (such as the Family Planning Annual Report [FPAR]) for use

in monitoring performance and improving family planning services;

8. Service delivery improvement through translation into practice of research outcomes that focus on family planning and related population issues; and

9. Utilizing practice guidelines and recommendations, developed by recognized national professional organizations and Federal agencies, in the provision of evidence-based Title X clinical services.

II. Award Information

The anticipated fiscal year (FY) 2008 appropriation for the Title X family planning program is approximately $283 million. Of this amount, OPA intends to make available approximately $81.1 million for competing Title X family planning services grant awards in 21 states, populations, and/or areas. (See Table I, Section IV. 3, *Submission Dates and Times*, for competing areas and approximate amount of available funding.) The amounts stated in Table I are inclusive of indirect costs, and represent the total amount available for the area/population to be served. The remaining FY 2008 funds will be used for continued support of grants and activities which are not competitive in FY 2008. This program announcement is subject to the appropriation of funds, and is a contingency action taken to ensure that, should funds become available for this purpose, applications can be processed in an orderly manner, and funds can be awarded in a timely fashion. Grants will be funded in annual increments (budget periods) and are generally approved for a project period of up to five years. Funding for all approved budget periods beyond the first year of the grant is contingent upon the availability of funds, satisfactory progress of the project, and adequate stewardship of Federal funds.

III. Eligibility Information

1. Eligible Applicants

Any public or nonprofit private entity located in a State (which includes one of the 50 United States, the District of Columbia, Commonwealth of Puerto Rico, U.S. Virgin Islands, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federated States of Micronesia, and the Republic of the Marshall Islands) is eligible to apply for a grant under this announcement. Faith-based organizations are eligible to apply for these Title X family planning services grants. Nonprofit private entities must provide proof of nonprofit status. See Section IV.2. for information regarding acceptable proof of nonprofit status.

2. Cost Sharing

Program regulations at 42 CFR 59.7(c) stipulate that "No grant may be made for an amount equal to 100 percent of the project's estimated costs." Also, 42 CFR 59.7(b) states that "No grant may be made for less than 90 percent of the project's costs, as so estimated, unless the grant is to be made for a project that was supported, under section 1001, for less than 90 percent of its costs in fiscal year 1975. In that case, the grant shall not be for less than the percentage of costs covered by the grant in fiscal year 1975."

While there is not a fixed cost-sharing percentage or amount, projects must include financial support from sources other than Title X. The proposed project budget should reflect financial support in addition to Title X funds on both the Standard Form (SF) 424A, "Budget Information," and in the budget justification. The amount and source(s) of these funds must be clearly identified separately from the requested Title X support as indicated on the SF 424A, as well as on the SF 424, "Application for Federal Assistance." The OPHS Office of Grants Management will review applications to ensure that the requested amount of Title X funding is in compliance with this business requirement.

3. Other

Awards will be made only to those organizations or agencies that have met all applicable requirements, and that demonstrate the capability of providing the required services.

IV. Application and Submission Information

1. *Address to Request Application Package.* Application kits may be obtained electronically by accessing Grants.gov at *http://www.grants.gov* or the electronic grants system at *www.GrantSolutions.gov*. Hard copy application kits may be requested from, and applications submitted to: Office of Public Health and Science (OPHS)/ Office of Grants Management (OGM), 1101 Wootton Parkway, Suite 550, Rockville, MD 20852, 240–453–8822. Application requests may be submitted by fax at 240–453–8823. Applications must be prepared using Form OPHS–1 "Grant Application," which includes budget forms, standard federal assurances, and instructions. The OPHS–1 can be obtained at the web sites noted above, or from the OPHS/ OGM, and is included in the application kit for this announcement.

2. *Content and Form of Application Submission.* Applications must be submitted on the Form OPHS–1 and in the manner prescribed in the application kit. The application narrative should be limited to 60 double-spaced pages using an easily readable serif typeface such as Times Roman, Courier, or GC Times, 12 point font. The page limit does not include budget; budget justification; required forms, assurances, and certifications as part of the OPHS–1, "Grant Application"; or appendices. All pages, charts, figures and tables should be numbered, and a table of contents provided. The application narrative should be numbered separately and should clearly show the 60 page limit. If the application narrative exceeds 60 pages, only the first 60 pages of the application narrative will be reviewed. Appendices may provide curriculum vitae, organizational structure, examples of organizational capabilities, or other supplemental information which supports the application, but should be limited to the minimum necessary to support the application narrative. Brochures and bound materials should not be submitted. Appendices are for supportive information only, and should be clearly labeled. All information that is critical to the proposed project should be included in the body of the application.

For all non-governmental applicants, documentation of nonprofit status must be submitted as part of the application. Any of the following constitutes acceptable proof of such status:

a. A reference to the Applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS code;

b. A copy of a currently valid IRS tax exemption certificate;

c. A statement from a State taxing body, State attorney general, or other appropriate State official certifying that the applicant organization has a nonprofit status and that none of the net earnings accrue to any private shareholders or individuals;

d. A certified copy of the organization's certificate of incorporation or similar document that clearly establishes nonprofit status;

For local, nonprofit affiliates of State or national organizations, a statement signed by the parent organization indicating that the applicant organization is a local nonprofit affiliate must be provided in addition to any one of the above acceptable proof of nonprofit status.

A Dun and Bradstreet Universal Numbering System (DUNS) number is

required for all applications for federal assistance. Organizations should verify that they have a DUNS number or take the steps needed to obtain one. Instructions for obtaining a DUNS number are included in the application package, or may be downloaded from the OPA Web site.

Applications must include an abstract of the proposed project. The abstract will be used to provide reviewers with an overview of the application, and will form the basis for the application summary in grants management documents.

Application Content

Successful applicants will clearly describe the administrative, management, and clinical capability of the applicant organization. All required services should be included as part of the program plan. The budget request and justification should directly reflect project activities.

Characteristics of a Successful Proposal

Proposed projects must adhere to all requirements of the Title X statute; applicable regulations, including regulations regarding sterilization of persons in Federally assisted family planning projects; and legislative mandates. Applicants are also expected to utilize Program Guidelines in developing the project plan. As indicated in the Title X regulations at 42 CFR 59.5(a)(7)–(9) and Program Guidelines, persons at or below 100% of the current Federal Poverty Level (FPL) must not be charged except where third parties are authorized or legally obligated to pay. Charges to persons between 101% and 250% of the FPL should be charged based on a schedule of discounts with sufficient increments so that inability to pay does not present a barrier to services. The schedule of discounts should be developed based on a cost analysis of services provided.

Successful proposals will fully describe how the project will address Title X requirements, and should include the following:

1. A clear description of the need for the services proposed;
2. A description of the geographic area and population to be served;
3. Evidence that the proposed project will address the family planning needs identified;
4. Evidence that the applicant organization has experience in providing clinical health services, and the capacity to undertake the comprehensive clinical family planning and related preventive health services required, including offering a broad range of acceptable and effective family planning methods and services, and complying with the requirements of the legislative mandates;
5. Evidence of familiarity with, and ability to provide services that include the following:
   a. Family planning and related preventive health issues as indicated in the Program Guidelines and Program Priorities;
   b. Services that are consistent with current, recognized national standards of care related to family planning, reproductive health, and general preventive health measures;
   c. Compliance with State laws requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest;
   d. Counseling techniques that encourage family participation in healthcare and reproductive decision-making of adolescents, and teach resistance skills for adolescents to avoid exploitation and/or sexual coercion;
6. A proposed schedule of discounts, or for applicants with multiple sub-recipients, a policy applicable to sub-recipients which meets the criteria set out in the Title X regulations at 42 CFR 59.5(a)(7)–(9), and in the Program Guidelines;
7. Evidence that the proposed services are consistent with the Title X statute; program regulations (including regulations regarding sterilization of persons in Federally assisted family planning services projects); legislative mandates; and Program Guidelines.
8. Evidence that Title X funds will not be used in programs where abortion is a method of family planning;
9. Evidence that Title X project activities are separate and distinct from non-Title X activities;
10. A project plan which describes the services to be provided, the location(s) and hours of clinic operations, and projected number of clients to be served;
11. A plan for providing community information and education programs which promote understanding of the objectives of the project and inform the community about the availability of services. The plan should include a strategy for maintaining records of information and education activities provided as part of the project;
12. A plan for an information and education advisory committee that is consistent with the Title X statute and regulations at 42 CFR 59.6, and that will ensure that all information and education materials used as part of the project are current, factual, and medically accurate, as well as suitable for the population or community to which they will be made available;
13. Evidence that the Title X Program Priorities and Key Issues are addressed in the project plan;
14. A staffing plan which is reasonable and adheres to the Title X regulatory requirement that family planning medical services be performed under the direction of a physician with special training or experience in family planning. Staff providing clinical services (e.g., physicians, State recognized advanced practice nurses, physician assistants) should be licensed and function within the applicable professional practice acts for the State in which they practice;
15. Goal statement(s) and related outcome objectives that are specific, measurable, achievable, realistic and time-framed (S.M.A.R.T.);
16. Evidence that the applicant has a plan to facilitate access to the following:
   a. Required clinical services, if not provided by the applicant; comprehensive primary care services; and/or,
   b. Other needed health and social services for clients served in the Title X-funded family planning project. This includes evidence of formal agreements for referral services, and collaborative agreements with other service providers in the community, where appropriate;
17. Evidence of the capability of collecting and reporting the required program data for the Title X annual data collection system (FPAR);
18. Evidence of a system for ensuring quality family planning services, including
   a. A process for ensuring compliance with program requirements, and
   b. A methodology for ensuring that health care practitioners have the knowledge and skills necessary to provide effective, quality family planning and related preventive health services that are consistent with current, evidence-based national standards of care. This should include training of select health care practitioners by the Clinical Training Center for Family Planning (CTCFP), and utilizing clinical training opportunities available through the Regional Training Center in the applicable region; and,
19. A budget and budget justification narrative for year one of the project that is detailed, reasonable, adequate, cost efficient, and that is derived from proposed activities. Budget projections for each of the continuing years should be included on the Standard Forms 424 and 424A included in the OPHS–1 "Grant Application."

3. *Submission Dates and Times.* Competing grant applications are invited for the following areas (please note, in order to maximize access to

family planning services, one or more grants may be awarded for each area listed within the total amount indicated for the area):

TABLE I

States/populations/areas to be served	Approximate funding available	Application due date	Approx. grant funding date
Region I:			
No service areas competitive in FY 2008.			
Region II:			
New York, New York City area	$4,209,000	03/01/08	07/01/08
New Jersey	8,586,000	09/01/07	01/01/08
Region III:			
Maryland	3,957,000	12/01/07	04/01/08
Southeast Pennsylvania	4,889,000	03/01/08	07/01/08
West Virginia	2,169,000	12/01/07	04/01/08
Region IV:			
Kentucky	5,442,500	03/01/08	07/01/08
South Carolina	5,767,000	03/01/08	07/01/08
Florida, Greater Miami area	544,000	06/01/08	09/30/08
Region V:			
Ohio, Central area	709,500	11/01/07	03/01/08
Minnesota	2,632,500	09/01/07	01/01/08
Region VI:			
Arkansas	3,341,000	11/01/07	03/01/08
Louisiana	4,370,000	03/01/08	07/01/08
New Mexico	2,835,000	09/01/07	01/01/08
Region VII:			
Iowa	2,531,500	03/01/08	07/01/08
Iowa	1,061,500	06/01/08	09/30/08
Region VIII:			
Montana	1,970,000	03/01/08	07/01/08
Region IX:			
Arizona	4,080,500	09/01/07	01/01/08
California	20,451,500	09/01/07	01/01/08
California, Los Angeles area	472,000	09/01/07	01/01/08
Republic of the Marshall Islands	190,500	03/01/08	07/01/08
Region X:			
Alaska	873,000	03/01/08	07/01/08

Submission Mechanisms

The Office of Public Health and Science (OPHS) provides multiple mechanisms for the submission of applications, as described in the following sections. Applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of applications submitted using any of these mechanisms. Applications submitted to the OPHS Office of Grants Management after the deadlines described below will not be accepted for review. Applications which do not conform to the requirements of this grant announcement will not be accepted for review and will be returned to the applicant.

While applications are accepted in hard copy, the use of the electronic application submission capabilities provided by the Grants.gov and GrantSolutions.gov systems is encouraged. Applications may only be submitted electronically via the electronic submission mechanisms specified below. Any applications submitted via any other means of electronic communication, including facsimile or electronic mail, will not be accepted for review.

In order to apply for new funding opportunities which are open to the public for competition, you may access the Grants.gov website portal at *www.Grants.gov.* All OPHS funding opportunities and application kits are made available on Grants.gov. If your organization has/had a grantee business relationship with a grant program serviced by the OPHS Office of Grants Management, and you are applying as part of ongoing grantee related activities, please access *www.GrantSolutions.gov*.

Electronic grant application submissions must be submitted no later than 5 p.m. Eastern Time on the deadline date specified in Table I of Section IV. 3, *Submission Dates and Times* of this announcement using one of the electronic submission mechanisms specified below. All required hard copy original signatures and mail-in items must be received by the OPHS Office of Grants Management no later than 5 p.m. Eastern Time on the next business day after the deadline date specified in Table I of this announcement.

Applications will not be considered valid until all electronic application components, hard copy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Application submissions that do not adhere to the due date requirements will be considered late and will be deemed ineligible.

Applicants are encouraged to initiate electronic applications early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submissions prior to the application deadline.

Electronic Submissions via the Grants.gov Web Site Portal

The Grants.gov Web site Portal provides organizations with the ability to submit applications for OPHS grant opportunities. Organizations must successfully complete the necessary

registration processes in order to submit an application. Information about this system is available on the Grants.gov Web site, *http://www.grants.gov.*

In addition to electronically submitted materials, applicants may be required to submit hard copy signatures for certain Program related forms, or original materials as required by the announcement. It is imperative that the applicant review both the grant announcement, as well as the application guidance provided within the Grants.gov application package, to determine such requirements. Any required hard copy materials, or documents that require a signature, must be submitted separately via mail to the OPHS Office of Grants Management, and, if required, must contain the original signature of an individual authorized to act for the applicant agency and the obligations imposed by the terms and conditions of the grant award. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Electronic applications submitted via the Grants.gov Web site Portal must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative, and any appendices or exhibits. All required mail-in items must received by the due date requirements specified above. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Upon completion of a successful electronic application submission via the Grants.gov Web site Portal, the applicant will be provided with a confirmation page from Grants.gov indicating the date and time (Eastern Time) of the electronic application submission, as well as the Grants.gov Receipt Number. It is critical that the applicant print and retain this confirmation for their records, as well as a copy of the entire application package.

All applications submitted via the Grants.gov Web site Portal will be validated by Grants.gov. Any applications deemed "Invalid" by the Grants.gov Web site Portal will not be transferred to the GrantSolutions system, and OPHS has no responsibility for any application that is not validated and transferred to OPHS from the Grants.gov Web site Portal. Grants.gov will notify the applicant regarding the application validation status. Once the application is successfully validated by the Grants.gov Web site Portal, applicants should immediately mail all required hard copy materials to the OPHS Office of Grants Management to be received by the deadlines specified above. It is critical that the applicant clearly identify the Organization name and Grants.gov Application Receipt Number on all hard copy materials.

Once the application is validated by Grants.gov, it will be electronically transferred to the GrantSolutions system for processing. Upon receipt of both the electronic application from the Grants.gov Web site Portal, and the required hard copy mail-in items, applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of the application submitted using the Grants.gov Web site Portal.

Applicants should contact Grants.gov regarding any questions or concerns regarding the electronic application process conducted through the Grants.gov Web site Portal.

Electronic Submissions via the GrantSolutions System

The electronic grants management system, *www.GrantSolutions.gov*, provides for applications to be submitted electronically. When submitting applications via the GrantSolutions system, applicants are required to submit a hard copy of the application face page (Standard Form 424) with the original signature of an individual authorized to act for the applicant agency and assume the obligations imposed by the terms and conditions of the grant award. If required, applicants will also need to submit a hard copy of the Standard Form LLL and/or certain Program related forms (e.g., Program Certifications) with the original signature of an individual authorized to act for the applicant agency. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Electronic applications submitted via the Grants.gov Web site Portal must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative, and any appendices or exhibits. All required mail-in items must received by the due date requirements specified above.

Upon completion of a successful electronic application submission, the GrantSolutions system will provide the applicant with a confirmation page indicating the date and time (Eastern Time) of the electronic application submission. This confirmation page will also provide a listing of all items that constitute the final application submission including all electronic application components, required hard copy original signatures, and mail-in items, as well as the mailing address of the OPHS Office of Grants Management where all required hard copy materials must be submitted.

As items are received by the OPHS Office of Grants Management, the electronic application status will be updated to reflect the receipt of mail-in items. It is recommended that the applicant monitor the status of their application in the GrantSolutions system to ensure that all signatures and mail-in items are received.

Mailed or Hand-Delivered Hard Copy Applications

Applicants who submit applications in hard copy (via mail or hand-delivered) are required to submit an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Mailed or hand-delivered applications will be considered as meeting the deadline if they are received by the OPHS Office of Grant Management no later than 5 p.m. Eastern Time on the deadline dates specified in Table I of this announcement. The application deadline date requirement specified in this announcement supersedes the instructions in the OPHS–1. Applications that do not meet the deadline will be returned to the applicant unread.

4. *Intergovernmental Review.* Applicants under this announcement are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs," as implemented by 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." As soon as possible, the applicant should discuss the project with the State Single Point of Contact (SPOC) for the state in which the applicant is located. The application kit contains the currently available listing of the SPOCs that have elected to be informed of the submission of applications. For those states not represented on the listing, further inquiries should be made by the applicant regarding the submission to the relevant SPOC. The SPOC should forward any comments to the OPHS Office of Grants Management, 1101

Wootton Parkway, Suite 550, Rockville, Maryland 20852. The SPOC has 60 days from the due date for the applicable area/population to be served as listed in Table I of this announcement to submit any comments. For further information, contact the OPHS Office of Grants Management at 240–453–8822.

5. *Funding Restrictions.* The allowability, allocability, reasonableness and necessity of direct and indirect costs that may be charged to OPHS grants are outlined in the following documents: OMB Circular A–21 (Institutions of Higher Education); OMB Circular A–87 (State and Local Governments); OMB Circular A–122 (Nonprofit Organizations); and 45 CFR part 74, Appendix E (Hospitals). Copies of the Office of Management and Budget (OMB) Circulars are available on the Internet at *http://www.whitehouse.gov/omb/grants/grants_circulars.html*.

In order to claim indirect costs as part of a budget request, an applicant organization must have an indirect cost rate which has been negotiated with the Federal Government. The Health and Human Services Division of Cost Allocation (DCA) Regional Office that is applicable to your State can provide information on how to receive such a rate. A list of DCA Regional Offices is included in the application kit for this announcement.

6. *Other Submission Requirements.* Applications must include an abstract of the proposed project.

V. Application Review Information

1. *Criteria.* Eligible applications will be assessed according to the following criteria:

Within the limits of funds available for these purposes, grants may be awarded for the establishment and operation of those projects which will best promote the purposes of section 1001 of Title X of the Public Health Service Act, taking into account:

(1) The degree to which the project plan adequately provides for the requirements set forth in the Title X regulations at 42 CFR part 59, subpart A (20 points);

(2) The extent to which family planning services are needed locally (20 points);

(3) The adequacy of the applicant's facilities and staff (20 points);

(4) The number of patients, and, in particular, the number of low-income patients to be served (15 points);

(5) The capacity of the applicant to make rapid and effective use of the Federal assistance (10 points);

(6) The relative availability of non-Federal resources within the community to be served and the degree to which those resources are committed to the project (10 points); and

(7) The relative need of the applicant (5 points).

2. *Review and Selection Process.* Each regional office is responsible for facilitating the process of evaluating applications and setting funding levels according to the criteria set out in 42 CFR 59.7(a). Awards (single or multiple for an area/population listed in Table I) will be made for approximately the amount listed. Application budgets that are significantly greater than the amount indicated in Table I for the area to be served, will be considered unfundable. Eligible applications will be reviewed by a panel of independent reviewers and will be evaluated based on the criteria listed above. In addition to the independent review panel, there will be Federal staff reviews of each application for programmatic and grants management compliance.

Final grant award decisions will be made by the Regional Health Administrator (RHA) for the applicable Public Health Service region. In making grant award decisions, the RHA will fund those projects which will, in his/her judgement, best promote the purposes of section 1001 of the Act, within the limits of funds available for such projects.

VI. Award Administration Information

1. Award Notices

The OPA does not release information about individual applications during the review process. When final funding decisions have been made, each applicant will be notified by letter of the outcome. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award (NGA), signed by the Director of the OPHS Office of Grants Management. This document specifies to the grantee the amount of money awarded, the purposes of the grant, the length of the project period, terms and conditions of the grant award, and the amount of funding to be contributed by the grantee to project costs. Grantees should pay specific attention to the terms and conditions of the award as indicated on the NGA, as some may require a time-limited response. The NGA will also identify the Grants Specialist and Program Project Officer assigned to the grant.

2. Administrative and National Policy Requirements

In accepting the award, the grantee stipulates that the award and any activities thereunder are subject to all provisions of 45 CFR parts 74 and 92, currently in effect or implemented during the period of the grant. Grant funds may only be used to support activities outlined in the approved project plan.

The successful applicant will be responsible for the overall management of activities within the scope of the approved project plan. The OPHS requires all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. This is consistent with the OPHS mission to protect and advance the physical and mental health of the American people.

The Health and Human Services Appropriations Act requires that when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with federal money, grantees shall clearly state the percentage and dollar amount of the total costs of the program or project that will be financed with federal money and the percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

3. Reporting

Each grantee is required to submit a Family Planning Annual Report (FPAR) each year.

The information collections (reporting requirements) and format for this report have been approved by the Office of Management and Budget and assigned OMB No. 0990–0221. The FPAR contains a brief organizational profile and 14 tables to report data on users, service use, and revenue for the reporting year. The FPAR instrument and instructions can be found on the OPA Web site at *http://opa.osophs.dhhs.gov*, and are included in the application kit for this announcement.

In addition to the FPAR, grantees are required to submit an annual Financial Status Report within 90 days of the end of each budget period. Grantees who receive $500,000 or greater of Federal funds must also undergo an independent audit in accordance with OMB Circular A–133.

Each year of the approved project period, grantees are required to submit a non-competing continuation application, which includes a progress report for the current budget year, and work plan, budget, and budget narrative for the upcoming year.

Required reports may be submitted either electronically or in hard copy.

VII. Agency Contacts

Administrative and Budgetary Requirements

For information related to administrative and budgetary requirements, contact the OPHS Office of Grants Management Grants Specialist for the applicable region as listed below:

For Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), Region II (New Jersey, New York, Puerto Rico, Virgin Islands), Region III (Delaware; Washington, DC; Maryland; Pennsylvania; Virginia; West Virginia), and Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas) contact Renee Scales, 240–453–8822, *renee.scales@hhs.gov.*

For Region IV (Kentucky, Mississippi, North Carolina, Tennessee, Alabama, Florida, Georgia, South Carolina), Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), and Region VII (Iowa, Kansas, Missouri, Nebraska) contact Eleanor Walker, 240–453–8822, *eleanor.walker@hhs.gov.*

For Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Region IX (Arizona, California, Hawaii, Nevada, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federated States of Micronesia, Republic of the Marshall Islands), and Region X (Alaska, Idaho, Oregon, Washington) contact Robin Fuller, 240–453–8822, *robin.fuller@hhs.gov.*

Program Requirements

For information related to family planning program requirements, contact the OPA/OFP contact in the applicable regional office listed below:

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)—Betsy Rosenfeld, 617–565–4265, *betsy.rosenfeld@hhs.gov* or Kathy Stratford, 617–565–1070, *kathleen.stratford@hhs.gov;*

Region II (New Jersey, New York, Puerto Rico, Virgin Islands)—Robin Lane, 212–264–3935, *robin.lane@hhs.gov;*

Region III (Delaware, Washington, DC, Maryland, Pennsylvania, Virginia, West Virginia)—Dickie Lynn Gronseth, 215–861–4656, *dickielynn.gronseth@hhs.gov;*

Region IV (Kentucky, Mississippi, North Carolina, Tennessee, Alabama, Florida, Georgia, South Carolina)—Edecia Richards, 404–562–7900, *edecia.richards@hhs.gov;*

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)—Marjie Witman, 312–886–3864, *marjie.witman@hhs.gov;*

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas)—Evelyn Glass, 214–767–3088, *evelyn.glass@hhs.gov;*

Region VII (Iowa, Kansas, Missouri, Nebraska)—Betty Chern-Hughes, 816–426–2924, *betty.chernhughes@hhs.gov;*

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)— Jill Leslie, 303–844–7856, *jill.leslie@hhs.gov;*

Region IX (Arizona, California, Hawaii, Nevada, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federal States of Micronesia, Republic of the Marshall Islands)— Nancy Mautone-Smith, 415–437–7984, *nancy.mautone-smith@hhs.gov;* and

Region X (Alaska, Idaho, Oregon, Washington)—Janet Wildeboor, 206–615–2776, *janet.wildeboor@hhs.gov.*

VIII. Other Information

Technical Assistance Conference Call: The OFP will conduct several technical assistance conference calls to provide potential applicants with general information regarding this funding opportunity. These calls will be held shortly after publication of this Notice in the **Federal Register**. For more information regarding the call schedule, including date, registration information, and how to participate, please consult the OPA Web site at *http://opa.osophs.dhhs.gov.*

Dated: June 5, 2007.

Evelyn M. Kappeler,

Acting Director, Office of Population Affairs.

[FR Doc. E7–11183 Filed 6–8–07; 8:45 am]

BILLING CODE 4150–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

State Partnership Grant Program to Improve Minority Health

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Minority Health.

ACTION: Notice.

Announcement Type: Competitive Initial Announcement of Availability of Funds.

Catalog of Federal Domestic Assistance Number: State Partnership Grant Program to Improve Minority Health—93.296.

DATES: To receive consideration, applications must be received by the Office of Grants Management, Office of Public Health and Science (OPHS), Department of Health and Human Services (DHHS) c/o WilDon Solutions, Office of Grants Management Operations Center, Attention Office of Minority Health State Partnership Grant Program to Improve Minority Health, no later than 5 p.m. Eastern Time on July 11, 2007. The application due date requirement in this announcement supersedes the instructions in the OPHS–1 form.

ADDRESSES: Application kits may be obtained electronically by accessing Grants.gov at *http://www.grants.gov* or GrantSolutions at *http://www.GrantSolutions.gov*. To obtain a hard copy of the application kit, contact WilDon Solutions at 1–888–203–6161. Applicants may fax a written request to WilDon Solutions at (703) 351–1138 or email the request to OPHS *grantinfo@teamwildon.com.* Applications must be prepared using Form OPHS–1 "Grant Application," which is included in the application kit.

FOR FURTHER INFORMATION CONTACT: WilDon Solutions, Office of Grants Management Operations Center, 1515 Wilson Blvd., Third Floor Suite 310, Arlington, VA 22209 at 1–888–203–6161, email *OPHSgrantinfo@teamwildon.com*, or fax 703–351–1138.

SUMMARY: This announcement is made by the United States Department of Health and Human Services (HHS or Department), Office of Minority Health (OMH) located within the Office of Public Health and Science (OPHS), and working in a "One Department" approach collaboratively with participating HHS agencies and programs (entities). OMH is authorized to conduct the State Partnership Grant Program to Improve Minority Health under 42 U.S.C. 300u–6, section 1707 of the Public Health Service Act, as amended. The mission of the OMH is to improve the health of racial and ethnic minority populations through the development of policies and programs that address disparities and gaps. OMH serves as the focal point within the HHS for leadership, policy development and coordination, service demonstrations, information exchange, coalition and partnership building, and related efforts to address the health of racial and ethnic minorities. OMH activities are implemented in an effort to address Healthy People 2010, a comprehensive set of disease prevention and health promotion objectives for the Nation to achieve over the first decade of the 21st century (*www.healthypeople.gov*). This funding announcement is also made in support of the OMH National Partnership for Action initiative, an outgrowth of OMH's 2006 National

Leadership Summit for Eliminating Racial and Ethnic Disparities in Health. The mission of the National Partnership for Action (NPA) is to work with individuals and organizations across the country to create a Nation free of health disparities, with quality health outcomes for all by achieving the following five objectives: Increasing awareness of health disparities; strengthening leadership at all levels for addressing health disparities; enhancing patient-provider communication; improving cultural and linguistic competency in delivering health services; and improving coordination and utilization of research and outcome evaluations.

OMH conducted a study to assess the minority health infrastructure within selected states and territories, and to examine their capacity to address racial and ethnic health disparities in their jurisdictions. A finding of the Assessment of State Minority Health Infrastructure and Capacity to Address Issues of Health Disparities (final report—September 2000) was that, despite many challenges, state and/or territorial offices of minority health are an organized and visible presence at the state policymaking level and provide opportunities for shaping and creating initiatives that could affect the health status of minority populations and serve as pivotal points for federal, state, and local efforts to improve the health status of minority populations. In addition, these offices serve an important information dissemination function—providing information on minority health issues to policymakers, health professionals, community-based organizations, and the general public. Based, in part, on the results of this study and activities supported under the initial state partnership initiative, the Department announces the availability of FY 2007 funding for the State Partnership Grant Program to Improve Minority Health to continue HHS' efforts to improve the health and well being of racial and ethnic minorities. This program is intended to ascertain the effectiveness of state office of minority health-led interventions, including systems change, in addressing the elimination of health disparities among racial and ethnic minority populations.

Although the overall health of the nation has improved, racial and ethnic minority groups continue to experience disparities in health care and are disproportionately affected by chronic disease and health conditions.[1] Eliminating the disproportionate health care disparities is an HHS priority, and the second goal of Healthy People 2010, a systematic approach to health improvement on a national level.

The risk of many diseases and health conditions are reduced through preventative actions. A culture of wellness diminishes debilitating and costly health problems. Individual health care is built on a foundation of responsibility for personal wellness, which includes participating in regular physical activity, eating a healthful diet, taking advantage of medical screenings, and making healthy choices to avoid risky behaviors. As cited in the National Healthcare Disparities Report, disparities related to race, ethnicity, and socioeconomic status still pervade the American health care system.[2] The report also indicates that prevention and elimination of health care disparities for the Nation will result from coordinated actions at Federal, State, and local levels to extend the benefits of regional and community successes nationwide.

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[1]Health, United States, 2006, Natinal Center for Health Statistics (NCHS), Hyattsville, MD, November 2006.

[2]National Healthcare Disparities Report, U.S. Department of Health and Human Services, Agency for Health Care Research and Quality (AHRQ), Rockville, MD, December 2006.

Section I. Funding Opportunity Description

Authority: The program is authorized under 42 U.S.C. 300u-6, section 1707 of the Public Health Service Act, as amended.

1. Purpose: The State Partnership Grant Program to Improve Minority Health (hereinafter referred to as State Partnership Program) seeks to facilitate the improvement of minority health and elimination of health disparities by addressing data needs, partnership development, systems development, health areas (e.g., asthma, CVD/heart disease and stroke, adult immunization, infant mortality, mental health, and obesity/overweight), and/or workforce diversity.

2. OMH Expectations: It is intended that this federal OMH/OPHS State Partnership Program will result in:

- Improved state and territory-wide planning, coordination, collaboration, and linkages among public and private entities that specifically address minority health and health disparities;
- Improved coordination and collaboration among state and territorial public health offices that benefit minority health and contribute to eliminating health disparities;
- Dedicated state and territorial leadership and staffing to: support planning and coordination; promote and implement evidence-based approaches and programs to address priority minority health problem(s); monitor and evaluate state and territorial efforts; and disseminate information focused on improving minority health and eliminating health disparities;
- Increased state and territory-wide efforts to improve minority health and eliminate health disparities through the support of community programs;
- Establishment or enhancement of multicultural partnerships to build efforts within communities of color to collaboratively address health issues impacting minority communities; and
- Improved diversity in the healthcare workforce.

3. Applicant Project Results: Applicants must identify anticipated project results that are consistent with the overall purpose of the State Partnership Program and OMH expectations. Project results should fall within the following general categories, which relate to the NPA objectives relevant to this program:

- Increasing awareness of health disparities.
- Strengthening leadership at all levels for addressing health disparities.
- Improving coordination and utilization of research and outcome evaluations.

4. Project Requirements: Each applicant under the State Partnership Program must propose to:

• Implement a project that:

(1) Focuses on improving state and territory-wide planning, coordination, collaboration, and linkages among public and private entities that specifically address minority health and health disparities; and

(2) Addresses at least one other activity from the identified OMH expectations list (see Section 2 above).

Section II. Award Information

Estimated Funds Available for Competition: $900,000. (Grant awards are subjected to the availability of funds.)

Anticipated Number of Awards: 7.

Range of Awards: $75,000 to $125,000 per year.

Anticipated Start Date: September 1, 2007.

Period of Performance: 3 Years (September 1, 2007 to August 31, 2010).

Budget Period Length: 12 months.

Type of Award: Grant.

Type of Application Accepted: New.

Section III. Eligibility Information

1. Eligible Applicants

To qualify for funding, an applicant must be a currently established state or territorial office of minority health at the time of application submission for this announcement and not have an existing State Partnership Program grant from OMH. States that do not have a formally recognized office of minority health (established through legislation, executive order, or a directive process) may not apply for these OMH State Partnership Program grants. States that do not have formal offices of minority health are not as likely to have the linkages and infrastructure necessary to foster effective relationships with public/private entities and/or community-based minority-focused organizations necessary to address the health needs of racial and ethnic minorities, as required for this program.

Documentation that verifies official status as an established state or territorial office of minority health must be submitted. Examples of such documentation include: a signed statement from a state/territorial level authorizing official (e.g., Governor or designated official, Commissioner of Health, or designee) verifying official status, including a copy of the Executive Order or statute that established the state or territorial office of minority health, where applicable.

A signed letter of support and commitment for the proposed project from an authorizing state or territorial official (e.g., Commissioner of Health, state health director, or designee) is also required as part of the application.

The established state or territorial office of minority health will:

• Serve as the lead office for the project.

• Be responsible for grant implementation, management, and evaluation.

2. Cost Sharing or Matching

Matching funds are not required for the State Partnership Program.

3. Other

If funding is requested in an amount greater than the ceiling of the award range, the application will be considered non-responsive and will not be entered into the review process. The application will be returned with notification that it did not meet the submission requirements. Applications that are not complete or do not conform to or address the criteria of this announcement will be considered non-responsive and will not be entered into the review process. The application will be returned with notification that it did not meet the submission requirements.

Established state and/or territorial offices of minority health may submit no more than one application to the State Partnership Program. Eligible states and territories submitting more than one proposal for this grant program will be deemed ineligible. The multiple proposals from the same organization will be returned without comment.

Established state and/or territorial offices of minority health are not eligible to receive funding from more than one OMH grant program to carry out the same project and/or activities.

Section IV. Application and Submission Information

1. Address to Request Application Kit

Application kits for the State Partnership Program may be obtained by accessing Grants.gov at *http://www.grants.gov* or the GrantSolutions system at *http://www.grantsolutions.gov*. To obtain a hard copy of the application kit, contact WilDon Solutions at 1–888–203–6161. Applicants may also fax a written request to WilDon Solutions at 703–351–1138 or email the request to *OPHSgrantinfo@teamwildon.com*. Applications must be prepared using Form OPHS–1, which can be obtained at the Web sites noted above.

2. Content and Form of Application Submission

A. Application and Submission

Applicants must use Grant Application Form OPHS–1 and complete the Face Page/Cover Page (SF 424), Checklist, and Budget Information Forms for Non-Construction Programs (SF 424A). In addition, the application must contain a project narrative. The project narrative (including summary and appendices) is limited to a total of 60 pages.

The narrative description of the project must contain the following, in the order presented:

• Table of Contents.

• Project Summary: Describe key aspects of the Background, Objectives, Program Plan, and Evaluation Plan. The summary is limited to 3 pages.

• Background:

—*Statement of Need:* Describe and document (with data) demographic information on the minority health and health disparities issues in the state/territory, and the significance or prevalence of the health problem or issues affecting the target minority group(s). Describe the minority group(s), where applicable, targeted by the project (e.g., race/ethnicity, age gender, educational level/income). Provide rationale for the approach.

—*Experience:* Describe the applicant organization (state/territorial office of minority health), where it is located organizationally, when it was formally established, and past/current efforts that are being undertaken by the organization to address minority health and health disparities. Discuss the applicant organization's experience in managing projects/activities, especially those targeting the population to be served. Include a chart of the organization's structure, showing who reports to whom, and of the proposed project's organizational structure. Describe how senior state health officials will be engaged in this program and/or periodically informed on the activities and outcomes of the program. Describe the background/experience of any proposed linkage organization and how the organization will interface with the state/territorial office of minority health.

• Objectives: State objectives in measurable terms, including baseline data, improvement targets, and time frames for achievement for the three-year project period.

• Program Plan: Clearly describe how the project will be carried out. Describe specific activities and strategies planned

to achieve each objective. For each activity, describe how, when, where, by whom, and for whom the activity will be conducted. Describe the role of any proposed linkage organization(s) in the project. Provide a description of proposed program staff, including resumes and job descriptions for key staff, qualifications and responsibilities of each staff member, and percent of time each will commit to the project. Provide a description of duties for any proposed consultants and/or collaborating public health entities. Describe any products to be developed by the project. Provide a time line for each of the three years of the project period.

• Evaluation Plan: Clearly delineate how the project will be evaluated. The evaluation plan must clearly articulate how the project will be evaluated to determine if the intended results have been achieved. The evaluation plan must describe, for all funded activities:

—Specific problem(s) and factors causing or contributing to the problem(s) that will be addressed;
—Intended results (i.e., impacts and outcomes);
—How impacts and outcomes will be measured (i.e., what indicators or measures will be used to monitor and measure progress toward achieving project results);
—Methods for collecting and analyzing data on measures;
—Evaluation methods that will be used to assess impacts and outcomes;
—Evaluation expertise that will be available for this purpose;
—How results are expected to contribute to the objectives of the Program as a whole, and relevant Healthy People 2010 goals and objectives; and
—The potential for replicating the evaluation methods for similar efforts by other state offices of minority health.

It is expected that evaluation activities will be implemented at the beginning of the program in order to capture and document actions contributing to program outcomes. The evaluation plan must be able to produce documented results that demonstrate whether and how the strategies and activities funded under the State Partnership Program made a difference in the improvement of minority health and the elimination of health disparities. The plan must identify the expected results for each objective. The description must include data collection and analysis methods and demographic data to be collected on project participants, where applicable. Discuss plans and describe the vehicle (e.g., manual) that will be used to document the steps which others may follow to replicate the proposed project. Describe plans for disseminating project results.

• Appendices: Include required eligibility documentation and other relevant information in this section.

In addition to the project narrative, the application must contain a detailed budget justification which includes a narrative explanation and indicates the computation of expenditures for each year for which grant support is requested. The budget request must include funds for key project staff to attend an annual OMH grantee meeting. (The budget justification does not count toward the page limitation.)

B. Data Universal Numbering System number (DUNS)

Applicants must have a Dun & Bradstreet (D&B) Data Universal Numbering System number as the universal identifier when applying for Federal grants. The D&B number can be obtained by calling (866) 705–5711 or through the Web site at *http://www.dnb.com/us/*.

3. Submission Dates and Times

To be considered for review, applications must be received by the Office of Public Health and Science, Office of Grants Management, c/o WilDon Solutions, by 5 p.m. Eastern Time on July 11, 2007. Applications will be considered as meeting the deadline if they are received on or before the deadline date. The application due date requirement in this announcement supersedes the instructions in the OPHS–1 form.

Submission Mechanisms

The Office of Public Health and Science (OPHS) provides multiple mechanisms for the submission of applications, as described in the following sections. Applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of applications submitted using any of these mechanisms. Applications submitted to the OPHS Office of Grants Management after the deadlines described below will not be accepted for review. Applications which do not conform to the requirements of the grant announcement will not be accepted for review and will be returned to the applicant.

While applications are accepted in hard copy, the use of the electronic application submission capabilities provided by the Grants.gov and GrantSolutions.gov systems is encouraged. Applications may only be submitted electronically via the electronic submission mechanisms specified below. Any applications submitted via any other means of electronic communication, including facsimile or electronic mail, will not be accepted for review.

In order to apply for new funding opportunities which are open to the public for competition, you may access the Grants.gov Web site portal. All OPHS funding opportunities and application kits are made available on Grants.gov. If your organization has/had a grantee business relationship with a grant program serviced by the OPHS Office of Grants Management, and you are applying as part of ongoing grantee related activities, please access GrantSolutions.gov.

Electronic grant application submissions must be submitted no later than 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement using one of the electronic submission mechanisms specified below. All required hardcopy original signatures and mail-in items must be received by the OPHS Office of Grants Management, c/o WilDon Solutions no later than 5 p.m. Eastern Time on the next business day after the deadline date specified in the **DATES** section of the announcement.

Applications will not be considered valid until all electronic application components, hardcopy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Application submissions that do not adhere to the due date requirements will be considered late and will be deemed ineligible.

Applicants are encouraged to initiate electronic applications early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submissions prior to the application deadline.

Electronic Submissions via the Grants.gov Web site Portal

The Grants.gov Web site Portal provides organizations with the ability to submit applications for OPHS grant opportunities. Organizations must successfully complete the necessary registration processes in order to submit an application. Information about this system is available on the Grants.gov Web site, *http://www.grants.gov*.

In addition to electronically submitted materials, applicants may be required to submit hard copy signatures for certain Program related forms, or original materials as required by the

announcement. It is imperative that the applicant review both the grant announcement, as well as the application guidance provided within the Grants.gov application package, to determine such requirements. Any required hard copy materials, or documents that require a signature, must be submitted separately via mail to the OPHS Office of Grants Management, c/o WilDon Solutions, and if required, must contain the original signature of an individual authorized to act for the applicant agency and the obligations imposed by the terms and conditions of the grant award. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Electronic applications submitted via the Grants.gov Web site Portal must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. All required mail-in items must received by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Upon completion of a successful electronic application submission via the Grants.gov Web site Portal, the applicant will be provided with a confirmation page from Grants.gov indicating the date and time (Eastern Time) of the electronic application submission, as well as the Grants.gov Receipt Number. It is critical that the applicant print and retain this confirmation for their records, as well as a copy of the entire application package.

All applications submitted via the Grants.gov Web site Portal will be validated by Grants.gov. Any applications deemed "Invalid" by the Grants.gov Web site Portal will not be transferred to the GrantSolutions system, and OPHS has no responsibility for any application that is not validated and transferred to OPHS from the Grants.gov Web site Portal. Grants.gov will notify the applicant regarding the application validation status. Once the application is successfully validated by the Grants.gov Web site Portal, applicants should immediately mail all required hard copy materials to the OPHS Office of Grants Management, c/o WilDon Solutions, to be received by the deadlines specified above. It is critical that the applicant clearly identify the Organization name and Grants.gov Application Receipt Number on all hard copy materials.

Once the application is validated by Grants.gov, it will be electronically transferred to the GrantSolutions system for processing. Upon receipt of both the electronic application from the Grants.gov Web site Portal, and the required hardcopy mail-in items, applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of the application submitted using the Grants.gov Web site Portal.

Applicants should contact Grants.gov regarding any questions or concerns regarding the electronic application process conducted through the Grants.gov Web site Portal.

Electronic Submissions via the GrantSolutions System

OPHS is a managing partner of the GrantSolutions.gov system. GrantSolutions is a full life-cycle grants management system managed by the Administration for Children and Families, Department of Health and Human Services (HHS), and is designated by the Office of Management and Budget (OMB) as one of the three Government-wide grants management systems under the Grants Management Line of Business initiative (GMLoB). OPHS uses GrantSolutions for the electronic processing of all grant applications, as well as the electronic management of its entire Grant portfolio.

When submitting applications via the GrantSolutions system, applicants are required to submit a hard copy of the application face page (Standard Form 424) with the original signature of an individual authorized to act for the applicant agency and assume the obligations imposed by the terms and conditions of the grant award. If required, applicants will also need to submit a hard copy of the Standard Form LLL and/or certain Program related forms (e.g., Program Certifications) with the original signature of an individual authorized to act for the applicant agency. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Electronic applications submitted via the GrantSolutions system must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. The applicant may identify specific mail-in items to be sent to the Office of Grants Management separate from the electronic submission; however these mail-in items must be entered on the GrantSolutions Application Checklist at the time of electronic submission, and must be received by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Upon completion of a successful electronic application submission, the GrantSolutions system will provide the applicant with a confirmation page indicating the date and time (Eastern Time) of the electronic application submission. This confirmation page will also provide a listing of all items that constitute the final application submission including all electronic application components, required hardcopy original signatures, and mail-in items, as well as the mailing address of the OPHS Office of Grants Management where all required hard copy materials must be submitted.

As items are received by the OPHS Office of Grants Management, the electronic application status will be updated to reflect the receipt of mail-in items. It is recommended that the applicant monitor the status of their application in the GrantSolutions system to ensure that all signatures and mail-in items are received.

Mailed or Hand-Delivered Hard Copy Applications

Applicants who submit applications in hard copy (via mail or hand-delivered) are required to submit an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Mailed or hand-delivered applications will be considered as meeting the deadline if they are received by the OPHS Office of Grant Management, c/o WilDon Solutions, on or before 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement. The application deadline date requirement specified in this announcement supersedes the instructions in the OPHS–1. Applications that do not meet the deadline will be returned to the applicant unread.

4. Intergovernmental Review

The State Partnership Program is subject to the requirements of Executive Order 12372 which allows States the options of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kits available under this notice will contain a list of States which have chosen to set up a review system and will include a State Single Point of Contact (SPOC) in the State for review. The SPOC list is also available on the Internet at the following address: *http://www.whitehouse.gov/omb/grants/spoc.html*. Applicants should contact their SPOC as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. The due date for State process recommendations is 60 days after the application deadlines established by the OPHS Grants Management Officer. The OMH does not guarantee that it will accommodate or explain its responses to State process recommendations received after that date. (See "Intergovernmental Review of Federal Programs," Executive Order 12372, and 45 CFR Part 100 for a description of the review process and requirements.)

5. Funding Restrictions

Budget Request: If funding is requested in an amount greater than the ceiling of the award range, the application will be considered non-responsive and will not be entered into the review process. The application will be returned with notification that it did not meet the submission requirements.

Grant funds may be used to cover costs of:

- Consultants.
- Personnel.
- Equipment.
- Supplies (including screening and outreach supplies).
- Grant-related travel (domestic only), including attendance at an annual OMH grantee meeting.
- Other grant-related costs.

Grant funds may not be used for:

- Building alterations or renovations.
- Construction.
- Fund raising activities.
- Job training.
- Medical care, treatment or therapy.
- Political education and lobbying.
- Research studies involving human subjects.
- Vocational rehabilitation.
- Vehicle purchases.

Guidance for completing the budget can be found in the Program Guidelines, which are included with the complete application kits.

Section V. Application Review Information

1. Criteria

The technical review of the State Partnership Program applications will consider the following four generic factors listed, in descending order of weight.

A. Factor 1: Program Plan (40%)

- Appropriateness and merit of proposed approach and specific activities for each objective.
- Logic and sequencing of the planned approaches as they relate to the statement of need, objectives and program evaluation.
- Soundness of any proposed partnerships (e.g., coalitions), as applicable.
- Applicant's capability to manage and evaluate the project as determined by:

—Qualifications and appropriateness of proposed staff or requirements for "to be hired" staff and consultants.
—Proposed staff level of effort.
—Appropriateness of defined roles including staff reporting channels and that of any proposed consultants or other collaborating department of health entities.
—Clear lines of authority among the proposed staff within and between participating organizations, as applicable.
—Inclusion and/or plan for communicating program activities and outcomes with senior state health officials.

B. Factor 2: Evaluation (25%)

- The degree to which expected results are appropriate for objectives and activities.
- Appropriateness of the proposed data collection (including any demographic data to be collected), analysis and reporting procedures.
- Suitability of process, outcome, and impact measures.
- Clarity of the intent and plans to assess and document progress toward achieving objectives, planned activities, and intended outcomes.
- Potential for the proposed project to contribute toward improving the health status of, and/or reducing barriers to, health care experienced by the targeted minority populations.
- Soundness of the plan to document the project for replication by other state/local and territorial offices of minority health.
- Soundness of the plan to disseminate project results.

C. Factor 3: Objectives (20%)

- Merit of the objectives.
- Relevance to the OMH Program purpose and expectations, and the stated problem to be addressed by the proposed project.
- Degree to which the objectives are stated in measurable terms.
- Attainability of the objectives in the stated time frames.

D. Factor 4: Background (15%)

- Demonstrated knowledge of the stated problem at the state and/or local level, as applicable.
- Significance and prevalence of any identified health problem(s) or health disparities issue(s) in the state/territory.
- Extent to which the applicant demonstrates access to the target population/community, and whether it is well positioned and accepted within the population/community to be served, as applicable.
- Extent and documented outcome of past/current efforts and activities with the target population, as applicable.
- Applicant's ability to manage and evaluate the project as determined by:
  - The applicant organization's experience in managing project/activities involving the target population.
  - The applicant's organizational structure and proposed project organizational structure.

2. Review and Selection Process

Accepted State Partnership Program applications will be reviewed for technical merit in accordance with PHS policies. Applications will be evaluated by an Objective Review Committee (ORC). Committee members are chosen for their expertise in minority health, health disparities, and their understanding of the unique health problems and related issues confronted by the racial and ethnic minority populations in the United States. Funding decisions will be determined by the Deputy Assistant Secretary for Minority Health who will take under consideration the recommendations and ratings of the ORC.

3. Anticipated Award Date

September 1, 2007.

Section VI. Award Administration Information

1. Award Notices

Successful applicants will receive a notification letter from the Deputy Assistant Secretary for Minority Health and a Notice of Grant Award (NGA), signed by the OPHS Grants Management Officer. The NGA shall be the only binding, authorizing document between the recipient and the Office of Minority

Health. Unsuccessful applicants will receive notification from OPHS.

2. Administrative and National Policy Requirements

In accepting this award, the grantee stipulates that the award and any activities thereunder are subject to all provisions of 45 CFR parts 74 and 92, currently in effect or implemented during the period of the grant.

The DHHS Appropriations Act requires that, when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees shall clearly state the percentage and dollar amount of the total costs of the program or project which will be financed with Federal money and the percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

3. Reporting Requirements

A successful applicant under this notice will submit: (1) Semi-annual progress reports; (2) an annual Financial Status Report; and (3) a final progress report and Financial Status Report in the format established by the OMH, in accordance with provisions of the general regulations which apply under "Monitoring and Reporting Program Performance," 45 CFR part 74.51–74.52, with the exception of State and local governments to which 45 CFR part 92, subpart C reporting requirements apply.

Uniform Data Set: The Uniform Data Set (UDS) is a web-based system used by OMH grantees to electronically report progress data to OMH. It allows OMH to more clearly and systematically link grant activities to OMH-wide goals and objectives, and document programming impacts and results. All OMH grantees are required to report program information via the UDS (*http://www.dsgonline.com/omh/uds*). Training will be provided to all new grantees on the use of the UDS system during the annual grantee meeting.

Grantees will be informed of the progress report due dates and means of submission. Instructions and report format will be provided prior to the required due date. The Annual Financial Status Report is due no later than 90 days after the close of each budget period. The final progress report and Financial Status Report are due 90 days after the end of the project period. Instructions and due dates will be provided prior to required submission.

Section VII. Agency Contacts

For application kits, submission of applications, and information on budget and business aspects of the application, please contact: WilDon Solutions, Office of Grants Management Operations Center, 1515 Wilson Boulevard, Third Floor Suite 310, Arlington, VA 22209 at 1–888–203–6161, email *OPHSgrantinfo@teamwildon.com,* or fax 703–351–1138.

For questions related to the State Partnership Program or assistance in preparing a grant proposal, contact Ms. Sonsiere Cobb-Souza, Acting Director, Division of Program Operations, Office of Minority Health, Tower Building, Suite 600, 1101 Wootton Parkway, Rockville, MD 20852. Ms. Cobb-Souza can be reached by telephone at (240) 453–8444; or by e-mail at *sonsiere.cobb-souza@hhs.gov.*

For additional technical assistance, contact the OMH Regional Minority Health Consultant for your region listed in your grant application kit.

For health-related information, call the OMH Resource Center (OMHRC) at 1–800–444–6472.

Section VIII. Other Information

1. Background Information

Many aspects of health in the U.S. have improved; however, significant racial and ethnic disparities remain. The prevalence of overweight in 2003–04 was significantly higher among Hispanic and Black children than white children, and approximately 45 percent of black and 37 percent of Hispanic adults were obese compared to 30 percent of whites.[3] In 2005, 18.1 percent of Native American/Alaska Natives reported frequent mental distress (14 or more mentally unhealthy days) compared to 9.6 percent of whites.[4] Higher percentages of Blacks (11.8) and Hispanics (10.2) also reported frequent mental distress than whites. American Indians/Alaska Natives also had the highest prevalence of asthma in 2002, when 11.6 percent of that population reported having asthma compared to 7.6 percent of whites.[5] Heart disease is the leading cause of death for men and women in the U.S.; the 2002 age-adjusted death rates for diseases of the heart were 30 percent higher among Blacks than whites. The mortality rates for infants in Black (13.6), American Indian/Alaska Native (8.7), and Puerto Rican (8.2) mothers all exceeded the rate for infants of white mothers (5.7) in 2003. Annual influenza vaccination can lessen the risk of hospitalization and death among persons 65 years of age and over and also prevent influenza-related complications for persons 18–64 years of age with medical conditions. Influenza vaccination coverage among adults 50–64 years of age was about 30 percent lower for non-Hispanic Blacks and Hispanic persons than non-Hispanic white persons. Similarly, influenza vaccination rate among adults 65 years of age and over were about 30 percent lower for non-Hispanic Blacks and Hispanic persons than for non-Hispanic whites.[6]

Health care workforce diversity is considered to be important in health care research, education, administration, and policy to provide both role models and to shape a health care system that meets the needs of all individuals. Diversity not only increases the opportunities for race- and language-concordant physician visits but also has the potential to improve cultural competence at the system, organizational, and provider levels through appropriate program design and policies, organizational commitment to culturally competent care, and cross-cultural education of colleagues. Research has shown that Blacks and Hispanics often see care from physicians of their own race or ethnicity because of personal preference and language, not just because of geographic convenience. Racial and ethnic concordance leads to increases in participatory visits, patient satisfaction, and reports of receipt of preventive care. It is also noted that minority physicians are more likely than their white colleagues to practice in underserved minority communities.[7]

2. Healthy People 2010

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2010, a PHS-led national activity announced in January 2000 to eliminate health disparities and improve years and quality of life. More information may be found on the Healthy People 2010 web site: *http://www.healthypeople.gov* and copies of the document may be downloaded. Copies of the Healthy

[3] 2004 Fact Sheet—Obesity Still a Major Problem, New Data Show, NCHS, Hyattsville, MD, 2006.

[4] Health Related Quality of Life Survey, CDC, National Center for Chronic Disease Prevention and Health Promotion, 2006.

[5] Asthma Prevalence and Control Characteristics by Race/Ethnicity—United States, 2002, MMWR Weekly, CDC, February 27, 2004.

[6] Health, United States, National Center for Health Statistics (NCHS), Hyattsville, MD, November 2006.

[7] National Healthcare Disparities Report, U.S. Department of Health and Human Services, Agency for Health Care Research and Quality (AHRQ), Rockville, MD, December 2006.

People 2010: Volumes I and II can be purchased by calling (202) 512–1800 (cost $70.00 for printed version; $20.00 for CD–ROM). Another reference is the Healthy People 2010 Final Review—2001.

For one free copy of the Healthy People 2010, contact: The National Center for Health Statistics, Division of Data Services, 3311 Toledo Road, Hyattsville, MD 20782, or by telephone at (301) 458–4636. Ask for HHS Publication No. (PHS) 99–1256. This document may also be downloaded from: *http://www.healthypeople.gov.*

3. Definitions

For purposes of this announcement, the following definitions apply:

Minority Populations—American Indian or Alaska Native; Asian; Black or African American; Hispanic or Latino; and Native Hawaiian or Other Pacific Islander (42 U.S.C. 300u–6, section 1707 of the Public Health Service Act, as amended.)

Multicultural Partnerships—Multicultural, multi-racial, and multi-ethnic entities comprising organizations and individuals that have come together for a common purpose and that function independently on behalf of the partnership's members to address health disparities within communities of color.

State and Territorial Office of Minority Health—An entity formally established by Executive Order, statute, or a state health officer to improve the health of racial and ethnic populations.

Systems Change—An effort to ensure that the resources and infrastructure necessary are available and accessible to address minority health and health disparities as well as the public health and health care needs of the American population in general. Structural and functional components of the system must also be present—components such as information, data, and evaluation capabilities; trained, motivated, and culturally/linguistically appropriate staff; and facilities, equipment, and technologies appropriate for the needs of public health/health care professionals and the people they serve.

Dated: June 5, 2007.

Garth N. Graham,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 07–2893 Filed 6–8–07; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Wei Jin, Colorado State University: Based on an investigation conducted by Colorado State University (CSU) and additional analysis and information obtained by the Office of Research Integrity during its oversight review, the U.S. Public Health Service (PHS) found that Mr. Wei Jin, former doctoral candidate, Department of Chemistry, CSU, engaged in research misconduct in research funded by National Cancer Institutes (NCI), National Institutes of Health (NIH), grant R01 CA85419.

Specifically, Mr. Jin falsified data/results by claiming he had performed a novel total synthesis of renieramycin G, when in fact, he obtained renieramycin G through a relatively simple reaction sequence from renieramycin M, a natural product that was a gift to the laboratory and that had been isolated by others from the Thai sponge. Mr. Jin included the falsified data/results in:

- His research notebooks and other records of his research;
- His dissertation, "Asymmetric total synthesis of (−)-Reineramycin G and studies toward the total synthesis of Ecteinascidin-743";
- A manuscript, Jin, W. & Williams, R., "Asymmetric total synthesis of (−)-Renieramycin G," accepted by the *Journal of the American Chemical Society*; and
- Supplemental information relative to the manuscript to be published online.

ORI has implemented the following administrative actions for a period of three (3) years, beginning on May 8, 2007:

(1) Mr. Jin is debarred from eligibility for any contracting or subcontracting with any agency of the United States Government and from eligibility or involvement in nonprocurement programs of the United States Government referred to as "covered transactions" as defined in HHS' implementation of OMB Guidelines to Agencies on Government-wide Debarment and Suspension at 2 CFR Part 376, et seq.; and

(2) Mr. Jin is prohibited from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8800.

John Dahlberg,

Acting Director, Office of Research Integrity.

[FR Doc. 07–2866 Filed 6–8–07; 8:45 am]

BILLING CODE 4150–31–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Notification From Industry Organizations Interested in Participating in Selection Process for Nonvoting Industry Representatives on Food Safety Public Advisory Committee and Request for Nominations for Nonvoting Industry Representatives on Food Safety Public Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that any industry organizations interested in participating in the selection of nonvoting industry representatives to serve on its Food Advisory Committee for the Center for Food Safety and Applied Nutrition (CFSAN) notify FDA in writing. A nominee may either be self-nominated or nominated by an organization to serve as a nonvoting industry representative. Nominations will be accepted for current vacancies effective with this notice.

DATES: Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests must send a letter stating that interest to the FDA by July 11, 2007, for vacancies listed in this notice. Concurrently, nomination materials for prospective candidates should be sent to FDA by July 11, 2007.

ADDRESSES: All letters of interest and nominations should be submitted in writing to Carolyn Jeletic (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Carolyn Jeletic, Center for Food Safety and Applied Nutrition; Office of Regulations, Policy, and Social Sciences (HFS–24); Food and Drug Administration, 5100 Paint Branch

Pkwy., College Park, MD 20740; 301–436–1719; *carolyn.jeletic@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: The agency intends to add nonvoting industry representative to its advisory committee identified below:

I. CFSAN Food Advisory Committee

The Committee shall provide advice primarily to Commissioner of Food and Drugs and other appropriate officials, on emerging food safety, food science, nutrition, and other food-related health issues that the FDA considers of primary importance for its food and cosmetics programs. The Committee may be charged with reviewing and evaluating available data and making recommendations on the following matters, such as those relating to: (1) Broad scientific and technical food or cosmetic related issues, (2) the safety of new foods and food ingredients, (3) labeling of foods and cosmetics, (4) nutrient needs and nutritional adequacy, and (5) safe exposure limits for food contaminants. The Committee may also be asked to provide advice and make recommendations on ways of communicating to the public the potential risks associated with these issues and on approaches that might be considered for addressing the issues.

II. Selection Procedure

Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests should send a letter stating that interest to the FDA contact (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication of this document. Within the subsequent 30 days, FDA will send a letter to each organization that has expressed an interest, attaching a complete list of all such organizations; and a list of all nominees along with their current resumes. The letter will also state that it is the responsibility of the interested organizations to confer with one another and to select a candidate, within 60 days after the receipt of the FDA letter, to serve as the nonvoting member to represent industry interests for a particular committee. The interested organizations are not bound by the list of nominees in selecting a candidate. However, if no individual is selected within 60 days, the Commissioner of Food and Drugs will select the nonvoting member to represent industry interests.

III. Application Procedure

Individuals may self nominate and/or an organization may nominate on one or more individuals to serve as a nonvoting industry representative. A current curriculum vitae and the name of the committee of interest should be sent to the FDA contact person within the 30 days. FDA will forward all nominations to the organizations expressing interest in participating in the selection process for the committee. (Persons who nominate themselves as nonvoting industry representatives will not participate in the selection process).

FDA has a special interest in ensuring that women, minority groups, individuals with physical disabilities, and small businesses are adequately represented on its advisory committees, and therefore, encourages, nominations for appropriately qualified candidates from these groups. Specifically, in this document, nominations for nonvoting representatives of industry interests are encouraged from the food production and manufacturing industry, the dietary supplement manufacturing industry, the agricultural biotechnology manufacturing industry.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: June 4, 2007.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E7–11141 Filed 6–8–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: The Health Center Program Application Forms: (OMB No. 0915–0285 Extension)

Health centers receiving grant funding under Section 330 of the Public Health Service (PHS) Act are a major component of America's health care safety net, the Nation's "system" of providing primary health care to underserved communities and vulnerable populations. Health centers care for people regardless of their ability to pay and whether or not they have health insurance. They provide primary health care, as well as services such as transportation and translation. Many health centers also offer dental, mental heath, and substance abuse care. Grants to health centers are administered by HRSA's Bureau of Primary Health Care (BPHC). In an effort to encourage the creation of new health centers and sites as well as improve and strengthen existing sites, HRSA periodically issues new grant opportunities.

HRSA uses the following application forms to administer and manage the Federal Qualified Health Center. These application forms are used by new and existing FQHC's to apply for grant and non-grant opportunities, re-new their grant or non-grant opportunities or change their scope of project.

Estimates of annualized reporting burden are as follows:

Type of application form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
General Information Worksheet	1,021	1	1,021	3.0	3,063
P12 Planning General Information Worksheet	300	1	300	12.0	3,600
BPHC Funding Request Summary	1,021	1	1,021	0.5	510.5
Proposed Staff Profile	1,021	1	1,021	6.0	6,126
Income Analysis Form	1,021	1	1,021	15.0	15,315
Community Characteristics	1,021	1	1,021	12.0	12,252

Type of application form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Services Provided	1,021	1	1,021	0.5	510.5
Sites Listing	1,021	1	1,021	1.0	1,021
Other Site Activities	700	1	700	0.5	350
Board Member Characteristics	1,021	1	1,021	1.0	1,021
Request for Waiver of Governance Requirements	150	1	150	1.0	150
Compliance Matrix	1,021	1	1,021	.5	510.5
Health Center Affiliation Certification	250	1	250	.5	125
Health Center Affiliation Checklist	1,021	1	1,021	.5	510.5
Need for Assistance	900	1	900	6.0	5,400
Emergency Preparedness Form	1,021	1	1,021	1.0	1,021
FTCA Form	800	1	800	1.0	800
Points of Contact	800	1	800	.5	400
Total	1,021		15,131		52,686

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Karen Matsuoka, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: June 5, 2007.

Caroline Lewis,

Associate Administrator for Management.

[FR Doc. E7–11219 Filed 6–8–07; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Response to Solicitation of Comments on a Funding Priority for Multiple Counties Under the Fiscal Year 2007 New Access Points in High Poverty Counties Grant Opportunity

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Response to Solicitation of Comments.

SUMMARY: A notice was published in the **Federal Register** (FR) on December 6, 2006, (Vol. 71, No. 234, pp. 70780–70781), describing a funding priority to be included in the fiscal year (FY) 2007 New Access Points in High Poverty Counties grant opportunity. The notice requested public comments on the proposed funding priority to be sent to HRSA no later than January 5, 2007.

Comments were received from over 30 organizations and/or individuals in response to the notice of the proposed funding priority. The majority of comments received did not pertain specifically to the proposed funding priority, but rather the President's High Poverty Counties Initiative ("the Initiative") and grant opportunity; therefore this notice presents a summary of the general comments received with HRSA's corresponding responses including references to the FY 2007 New Access Points in High Poverty Counties (HRSA–07–069) funding opportunity, as well as a summary of the final funding priority.

Summary of Comments Received

Issue: Methodology and List of Eligible Counties

Comments: Over 25 of the comments received requested additional information on the poorest counties that would be eligible for the grant opportunities offered under the Initiative. A number of comments offered suggestions for the methodology of determining the eligible counties, while others solely requested a list of the eligible counties.

Agency Response: Specific eligibility requirements for the New Access Points in High Poverty Counties (HRSA–07–069) opportunity, as well as the Planning Grants in High Poverty Counties (HRSA–07–066) funding opportunity, are detailed within the respective grant announcements available online through the HRSA Web site at: *http://www.hrsa.gov/grants.* Eligibility for both opportunities is limited to the 200 eligible high poverty counties that have been determined using two cohorts with no section 330 grantee site and a high percentage of people living below 200 percent of the Federal poverty level. One cohort consists of counties with populations at or above 100,000 (high population) and makes up approximately 25 percent of the total eligible counties. The other cohort consists of counties with populations below 100,000 (low population) and constitutes approximately 75 percent of the eligible counties. The low population counties were also screened by a provider need criteria. To be eligible, low population counties were required to exhibit a need of at least one additional primary care provider (PCP), using a standard of one PCP for every 3,000 persons. The list of eligible counties is included within each of the grant announcements.

Issue: Focusing on County Level for Eligibility

Comments: Comments expressed specific concern over the decision to limit eligibility for the Initiative to the county level, especially since counties differ significantly in geographic size, population density, diversity, etc. Suggestions included opening the competition to all communities, with a priority instead to the defined high poverty counties.

Agency Response: The Initiative was established to further the success of the President's Health Center Initiative by focusing support and increasing access to quality health services in the Nation's poorest counties without a health center. Counties were selected as the focus of this particular initiative because they are a recognized boundary for the delivery of public health and social services in many communities, and the Initiative will help support county level efforts to provide needed primary care services to their populations.

Issue: Guidance information

Comments: Comments requested further information on the application guidance release date, funding levels, and how to apply for the funding opportunities.

Agency Response: The New Access Point in High Poverty Counties (HRSA–07–069) and Planning Grants in High Poverty Counties (HRSA–07–066) opportunities were both released March 14, 2007, and were made available on

the HRSA Web site at *http://www.hrsa.gov/grants*, or through Grants.gov at: *http://www.grants.gov.* In FY 2007, up to 120 New Access Points in High Poverty Counties are estimated to be funded. HRSA anticipates awarding a minimum of $24 million for this activity in FY 2007 and applications were due May 23, 2007. Subject to the availability of funds, up to 25 Planning Grants in High Poverty Counties will be funded, with applications that were due May 16, 2007. All applications were to be submitted electronically through Grants.gov by the established due dates.

Summary of the Funding Priority

A funding priority is defined as the favorable adjustment of combined review scores of individually approved applications when applications meet specified criteria. An adjustment is made by a set, pre-determined number of points. The New Access Point in High Poverty Counties funding opportunity has one funding priority of five (5) points for "Multi-County Applications." In order to be considered for this funding priority, applicants must demonstrate that a minimum of 15 percent of the total target population will come from a county(ies) other than the eligible high poverty county in which the new access point will be located. Applicants requesting consideration of a funding priority must initiate the request and provide the expected distribution of the target population among the counties to be served by the high poverty county new access point project.

FOR FURTHER INFORMATION CONTACT: Preeti Kanodia, Division of Policy and Development, Bureau of Primary Health Care, Health Resources and Services Administration. Ms. Kanodia may be contacted by e-mail at *PKanodia@hrsa.gov* or via telephone at (301) 594–4300.

Dated: June 5, 2007.

Elizabeth M. Duke,

Administrator.

[FR Doc. E7–11220 Filed 6–8–07; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Healthcare Integrity and Protection Data Bank: Announcement of Proactive Disclosure Service Opening Date and User Fees

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

ACTION: Notice.

SUMMARY: The Office of Inspector General (OIG) is announcing the availability of a Proactive Disclosure Service (PDS) Prototype for customers of the Healthcare Integrity and Protection Data Bank (HIPDB). The PDS was developed for the National Practitioner Data Bank (NPDB) in response to customers' interest in real-time monitoring of practitioner credentials. As a result of the technical interoperability of the NPDB and HIPDB, the PDS feature is also being made available to HIPDB customers.

DATES: This fee will be effective June 11, 2007.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, OIG Office of External Affairs, (202) 619–0089, or Mark Pincus, HRSA, Bureau of Health Professions, (301) 443–2300.

SUPPLEMENTARY INFORMATION: The PDS has been initially offered as a prototype to authorized NPDB entities, as set forth in a HRSA notice published in the **Federal Register** on March 7, 2007 (72 FR 10227). In accordance with implementation of the PDS prototype, authorized HIPDB customers can also now choose to enroll all of their practitioners, providers, and suppliers in PDS, or enroll some of their practitioners, providers, and suppliers while continuing to periodically query on others using the regular query methods. Customers with PDS-enrolled subjects will be notified within one business day of the HIPDB's receipt of a report on any of their enrollees. While customers can expect to receive reports sooner with PDS, the format of and information contained in a report will remain the same.

The annual subscription fee during the prototype period will be $3.25 per practitioner, provider, or supplier. The rate is subject to change after the prototype period is complete. The query fee for periodic queries will continue to remain at $4.75 per name.

PDS Enrollment Availability

The PDS prototype became available to NPDB queries effective April 30, 2007. An invitation to participate in this prototype was extended first to organizations that assisted HRSA with designing and pricing, which occurred between 2003 and 2005. All entities registered with the HIPDB and/or the NPDB have been invited to participate to meet a predetermined number for subjects to be monitored. Once this number is achieved, enrollment in the prototype will close. It is anticipated that the PDS prototype period will last approximately 18 to 24 months before it is opened to all authorized Data Bank entities.

User Fee Amount

An annual subscription fee of $3.25 per subject will be charged upon enrollment. This fee includes the cost of an initial query, which automatically will be incurred when a subject is first enrolled, and all reports received on the enrolled subject over the course of the one-year subscription period. The fee was determined through economic analysis of the average annual rate of queries performed by health care entities in relationship to the current query fee that is based on the actual cost for services. The Department will accept payment for the subscription fee from entities via credit card or electronic funds transfer. When the prototype period concludes, the Department may change the subscription fee. Any changes will be announced through notice in the **Federal Register**.

Dated: May 14, 2007.

Daniel R. Levinson,

Inspector General.

[FR Doc. E7–11207 Filed 6–8–07; 8:45 am]

BILLING CODE 4152–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

A Sensitive, High Throughput Pseudovirus-Based Papillomavirus Neutralization Assay for HPV 16 and HPV 18

Description of Technology: This invention is a research tool for measuring protective antibody responses against Human Papilloma Viruses (HPV). Sensitive high-throughput neutralization assays, based upon pseudoviruses carrying a secreted alkaline phosphatase (SEAP) reporter gene, were developed and validated by the inventors for HPV 16, HPV 18, and bovine papillomavirus 1 (BPV1). In a 96-well plate format, the assay was reproducible and appears to be as sensitive as, but more type-specific than, a standard papillomavirus-like particle (VLP)-based enzyme-linked immunosorbent assay (ELISA). The SEAP pseudovirus-based neutralization assay should be a practical method for quantifying potentially protective antibody responses in HPV natural history and prophylactic vaccine studies.

Inventors: John T. Schiller (NCI), Douglas R. Lowy (NCI), Christopher Buck (NCI), Diana V. Pastrana (NCI), *et al.*

Publication: The assay is further described in Pastrana *et al.*, "Reactivity of human sera in a sensitive, high-throughput pseudovirus-based papillomavirus neutralization assay for HPV16 and HPV18," Virology. 2004 Apr 10;321(2):205–216.

Patent Status: HHS Reference No. E–137–2004/0—Research Material.

Licensing Status: This assay is available nonexclusively through a biological materials license.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; soukasp@*mail.nih.gov.*

Development of a Novel High Throughput Assay To Measure Cell-Infection With Vaccinia Strains Expressing Reporter Genes

Description of Technology: Critical to developing a vaccine against viral infections is an assay to measure the neutralizing antibody present in blood of vaccine recipients. The currently available tests are labor intensive and require 5–6 days to complete. The inventors have designed a high throughput vaccinia neutralization assay, which offers several advantages over the assays that are currently used. It is completed in as little as 24 hours, it is sensitive, highly reproducible, requires only 50 µl of plasma and uses automated readout. This assay is based on the use of recombinant vaccinia virus (vSC56) expressing a bacterial gene coding for the enzyme b-galactosidase (b-Gal) under the control of a synthetic early/late promotor. Another recombinant virus expressing an inducible reporter gene (Luciferase) is also being tested in neutralization assay. These assays may be of value in the clinical trials of new smallpox vaccines, for evaluations of new vaccinia immunoglobulin (VIG) and anti-viral agents under development. The technology itself may be adapted for construction of neutralization assays for other viruses and intracellular pathogens.

Inventor: Hana Golding (FDA).

Publications:

1. J Manischewitz et al. Development of a novel vaccinia-neutralization assay based on reporter-gene expression. J Infect Dis. 2003 Aug 1;188(3):440–448.
2. Y Edghill-Smith et al. Modeling a safer smallpox vaccination regimen, for human immunodeficiency virus type 1-infected patients, in immunocompromised macques. J Infect Dis. 2003 Oct 15;188(8):1181–1191.
3. JC Goldsmith et al. Intravenous immunoglobulin products contain neutralizing antibodies to vaccinia. Vox Sang. 2004 Feb;86(2):125–129.
4. Y Edghill-Smith et al. Smallpox vaccine does not protect macaques with AIDS from a lethal monkeypox virus challenge. J Infect Dis. 2005 Feb 1;191(3):372–381.
5. Y Edghill-Smith et al. Smallpox vaccine-induced antibodies are necessary and sufficient for protection against monkeypox virus. Nat Med. 2005 Jul;11(7):740–747.
6. CA Meseda et al. Enhanced immunogenicity and protective effect conferred by vaccination with combinations of modified vaccinia Ankara and licensed smallpox vaccine Dryvax in a mouse model. Virology. 2005 Sep 1;339(2):164–175.
7. KH Waibel et al. Clinical and immunological comparison of smallpox vaccination administered to the outer versus the inner upper arms of vaccinia-naïve adults. Clin Infect Dis. 2006 Feb 15;42(4):e16–20.
8. JM Heraud et al. Subunit recombinant vaccine protects against monkeypox . J.Immunol. 2006 Aug 15;177(4):2552–2564.
9. VL Kan et al. Durable neutralizing antibodies after remote smallpox vaccination among adults with and without HIV infection. AIDS. 2007 Feb 19;21(4):521–524.

Patent Status: U.S. Provisional Patent Application 60/429,767 filed 27 Nov 2002 (HHS Reference No. E–300–2002/0–US–01); PCT Application No. PCT/US03/37677 filed 24 Nov 2003, which published as WO 2004/053454 on 24 Jun 2004 (HHS Reference No. E–300–2002/0–PCT–02); U.S. Patent Application No. 10/536,860 filed 06 Jan 2006 (HHS Reference No. E–300–2002/0–US–05).

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; soukasp@*mail.nih.gov.*

Collaborative Research Opportunity: The CBER/FDA Laboratory of Retrovirus Research is seeking statements of capability or interest from parties interested in collaborative research to further develop or evaluate novel anti-vaccinia agents including monoclonal antibodies and vaccines. Please contact Hana Golding at Tel: 301–827–0784 or E-mail: *hana.golding@fda.hhs.gov for more information.*

Vectors for Delivering Viral and Oncogenic Inhibitors

Description of Technology: The invention concerns cell transduction vectors which are capable of inhibiting viral replication in cells transduced with these vectors, and which also are capable of inhibiting the growth of cancer cells. Specifically, these expressions vectors produce protective genes which interfere with viral replication. These genes are tightly regulated by HIV–1 Tat and Rev proteins, which if produced after infection can induce expression of the protective genes. The vectors contain either a single gene (delta-gag), or a combination of two different genes (delta-gag and RNAse) which interfere with HIV–1 replication at different stages of the HIV–1 life cycle. Following transduction of target cells, the mRNA for the protective genes is incorporated into the newly budding virion along with the viral genomic mRNA. Following infection of neighboring cells, the mRNA for the protective gene can be reverse transcribed and integrated into these cells, thereby increasing the proportion of cells containing the protective gene.

In providing protection against viral replication, the vectors embodied in this invention could be used in gene therapy against HIV and against other viral diseases. In addition, the vectors could be used for introducing specific genes into neoplastic cells and thereby be effective in treating cancer and other diseases.

Inventors: Susanna M. Rybak, Andrea Cara, Gabriella L. Gusella, Dianne L. Newton (NCI).

Patent Status: U.S. Patent No. 6,953,687 issued 11 Oct 2005 (HHS Reference No. E–117–1996/0–US–07); U.S. Patent Application No. 11/043,858 filed 24 Jan 2005 (HHS Reference No. E–117–1996/0–US–08).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301/435–4646; soukasp@*mail.nih.gov.*

Dated: June 4, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–11195 Filed 6–8–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the National Cancer Institute Board of Scientific Advisors.

The meetings will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Board of Scientific Advisors; TARGET Ad Hoc Subcommittee Meeting.

Date: June 27, 2007.

Time: 7 p.m. to 9: 30 p.m.

Agenda: To discuss activities related to the BSA TARGET Ad Hoc Subcommittee.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, Md 20814.

Contact Person: Malcolm M. Smith, PhD, MD, Executive Secretary, Associate Branch Chief, Pediatric Section, Clinical Investigation Branch, Clinical Therapy Evaluation Program, NCI, 6130 Executive Blvd, EPN, 7th Floor, Rm. 7025, Bethesda, MD 20852, 301–496–2522, *smithm@ctep.nci.nih.gov.*

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: June 28–29, 2007.

Time: June 28, 2007, 8 a.m. to 6 p.m.

Agenda: Director's Report: Ongoing and New Business; Reports of Program Review, Group(s); and Budget Presentation; Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Time: June 29, 2007, 8:30 a.m. to 1 p.m.

Agenda: Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: Paulette S. Gray, PhD, Executive Secretary, Director, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Rm. 8001, 301–496–5147, *grayp@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID. driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *deainfo.nci.nih.gov/advisory/bsa.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: June 1, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2873 Filed 6–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting.

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcholism Special Emphasis Panel, Epigenetic Mechanisms in the Neurobiology of Alcohol Tolerance and Dependence. (RFA–AA–07–011 & AA–07–012).

Date: July 16, 2007.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Beata Buzas, PhD, Scientific Review Administrator, National Institutes on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, RM 3041, Rockville, MD 20852, 301–443–0800, *bbuzas@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: June 1, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2872 Filed 6–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Chemical Senses.

Date: June 27, 2007.

Time: 12 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852. (Telephone Conference Call).

Contact Person: Christine A. Livingston, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institutes of Health/NIDCD, 6120 Executive Blvd., MSC 7180, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: June 1, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2875 Filed 6–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Interdisciplinary Behavioral Science Center.

Date: June 29, 2007.

Time: 2 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call).

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–7216, *hhaigler@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; R34 AIDS Review.

Date: July 12, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–7216, *hhaigler@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; K99 Review.

Date: July 20, 2007.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call).

Contact Person: Henry J. Haigler, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–7216, *hhaigler@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Award for Research Training, National Institutes of Health, HHS)

Dated: May 31, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2876 Filed 6–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Environmental Health Sciences Review Committee.

Date: July 11–13, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Radisson Governor's Inn, I–40 at Davis Drive, Exit 280, Research Triangle Park, NC 27709.

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–24, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIFHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: May 31, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2877 Filed 6–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Conotoxin Peptides.

Date: June 26–27, 2007.

Time: 8 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Peter B. Guthrie, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Retinopathy Studies.
Date: June 28, 2007.
Time: 8 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: The Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.
Contact Person: Raya Mandler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217, MSC 7840, Bethesda, MD 20892, 301–402–8228, *rayam@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Dietary Factors and Cancer.
Date: June 28, 2007.
Time: 1 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Eun Ah Cho, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, (301) 451–4467, *choe@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Enzyme and Gene Evolution.
Date: June 28, 2007.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Richard A. Currie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1108, MSC 7890, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; SBIR/STTR Risk Prevention and Health Behaviors.
Date: July 10, 2007.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Morrison House Hotel, 116 S. Alfred Street, Alexandria, VA 22314.
Contact Person: Claire E. Gutkin, PhD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7759, Bethesda, MD 20892, 301–594–3139, *gutkincl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Infectious Agent Detection and Diagnostics.
Date: July 10–11, 2007.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate Hotel, 2650 Virginia Avenue, NW, Washington, DC 20037.
Contact Person: Soheyla Saadi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Regenerative Medicine Bioengineering Research Partnerships—PAR–06–459.
Date: July 10, 2007.
Time: 1 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Jean D. Sipe, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, 301/435–1743, *sipej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurogenetics and Neurogenomics.
Date: July 11, 2007.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate Hotel, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Robert C. Elliott, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Circadian Rhythms and Sexual Behavior.
Date: July 11, 2007.
Time: 1 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)
Contact Person: Lawrence Baizer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7850, Bethesda, MD 20892, (301) 435–1257 *baizerl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Digestive Sciences and Bioengineering.
Date: July 11, 2007.
Time: 3 p.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)
Contact Person: Bonnie L. Burgess-Beusse, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2191C, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Rehabilitation Sciences Study Section.
Date: July 11–13, 2007.
Time: 8 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786, *pelhamj@csr.nih.gov.*

Name of Committee: Biology of Development and Aging Integrated Review Group; International and Cooperative Projects—1 Study Section.
Date: July 12, 2007.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: The Georgetown Suites, 1000 29th Street, NW., Washington, DC 20007.
Contact Person: Manana Sukhareva, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–435–1116, *sukharem@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Molecular and Cellular Biology Study Section.
Date: July 12, 2007.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate Hotel, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Kenneth A. Roebuck, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biophysical and Biochemical Science.
Date: July 12–13, 2007.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.
Contact Person: Denise Beusen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7806, Bethesda, MD 20892, (301) 435–1267, *beusend@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Assays, Devices, and Instruments.
Date: July 12, 2007.
Time: 8 a.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.
Contact Person: Geoffrey White, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD 20892, 301–435–2417, *whitege@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Science Approaches to Preventing HIV/AIDS Study Section.

Date: July 12–13, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate Hotel, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Jose H. Guerrier, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Consequences of HIV/AIDS Study Section.

Date: July 12–13, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate Hotel, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Mark P. Rubert, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Shared Instrumentation (S10) Review.

Date: July 12, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Richard Panniers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1741, *pannierr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Diversity Predoctoral Fellowships for DCPS.

Date: July 12, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Inn, 1310 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Fungai F. Chanetsa, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–435–1262, *chanetsaf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Chemistry and Biophysics SBIR/STTR Panel.

Date: July 12, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: George Washington University Inn, 824 New Hampshire Ave., NW., Washington, DC 20037.

Contact Person: Sergei Ruvinov, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1180, *ruvinser@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Clinical Cardiovascular Systems (AICS) SS.

Date: July 12, 2007.

Time: 1:30 p.m. to 2:45 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Larry Pinkus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, 301–435–1214, *pinkusl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fungal Biology.

Date: July 12, 2007.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Diane L. Stassi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–435–2514, *stassid@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 1, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–2874 Filed 6–8–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

Title: State Administrative Plan for the Hazard Mitigation Grant Program.

OMB Number: 1660–0026.

Abstract: State grant recipients of Hazard Mitigation Grant Program (HMGP) funds are required under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93–288, as amended) to develop or review/update a State Administration Plan after each disaster declaration that describes how the State will manage such funds. FEMA is responsible for reviewing and approving the plan for compliance with the requirements of 44 CFR 206.437.

Affected Public: State, local, or tribal government.

Number of Respondents: 32.

Estimated Time per Respondent: 8 hours.

Estimated Total Annual Burden Hours: 384.

Frequency of Response: On occasion.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, Attention: Nathan Lesser, Desk Officer, Department of Homeland Security/FEMA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974. Comments must be submitted on or before July 11, 2007.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Chief, Records Management, FEMA, 500 C Street, SW., Room 609, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov*.

Dated: June 4, 2007.

John A. Sharetts-Sullivan,

Chief, Records Management and Privacy, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–11174 Filed 6–8–07; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1699–DR]

Kansas; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Kansas (FEMA–1699–DR), dated May 6, 2007, and related determinations.

EFFECTIVE DATE: June 1, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Kansas is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 6, 2007:

Riley County for Individual Assistance.

Chase, Cherokee, Doniphan, Douglas, Harper, Kingman, Nemaha, Riley, and Washington Counties for Public Assistance.

Clay, Leavenworth, Lyon, Osborne, Reno, Rice, Saline, and Shawnee Counties for Public Assistance (already designated for Individual Assistance.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–11175 Filed 6–8–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1698–DR]

Vermont; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Vermont (FEMA–1698–DR), dated May 4, 2007 and related determinations.

EFFECTIVE DATE: June 4, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Vermont is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 4, 2007:

Lamoille County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–11176 Filed 6–8–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: U.S./Israel Free Trade Agreement

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security 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: U.S./Israel Free Trade Agreement. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments form the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (72 FR 15891) on April 3, 2007, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 11, 2007.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/Customs and Border Protection, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of

appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: U.S./Israel Free Trade Agreement.

OMB Number: 1651–0065.

Form Number: N/A.

Abstract: This collection is used to ensure conformance with the provisions of the U.S./Israel Free Trade Agreement for duty free entry status.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 34,500.

Estimated Time Per Respondent: 13 minutes.

Estimated Total Annual Burden Hours: 7,505.

Estimated Total Annualized Cost on the Public: $143,345.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: June 3, 2007.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. E7–11213 Filed 6–8–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Proposed Collection; Comment Request; Application—Alternative Inspection Services/FAST Commercial Driver Application

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security 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: Application—Alternative Inspection Services/FAST Commercial Driver Application. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (72 FR 12181) on March 15, 2007, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 11, 2007.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/Customs and Border Protection, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Application—Alternative Inspection Services/FAST Commercial Driver Application.

OMB Number: 1651–0121.

Form Number: CBP Forms I–823 and 823F.

Abstract: The purpose of the Alternative Inspection Services and FAST Programs are to prescreen applicants and their vehicles in order to expedite travelers seeking admission to the United States. CBP plans to institute a web-based system for applicants to apply for Alternative Inspection Services and the FAST Program, and to phase out the paper versions of the I–823 and the 823F.

Current Actions: This submission is to extend the expiration date.

Type of Review: Extension (without change to the burden hours).

Affected Public: Businesses, Individuals.

Estimated Number of Respondents: 275,000.

Estimated Time Per Respondent: 1 hour and 6 minutes.

Estimated Total Annual Burden Hours: 304,000.

Estimated Total Annualized Cost on the Public: $7,740,000.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: June 4, 2007.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. E7–11214 Filed 6–8–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Proposed Collection; Comment Request Regulations Relating to Recordation and Enforcement of Trademarks and Copyrights

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security 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: Regulations Relating to Recordation and Enforcement of Trademarks and Copyrights (Part 133 of the CBP Regulations). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change

to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (72 FR 12180) on March 15, 2007, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 11, 2007.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/ Customs and Border Protection, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the Proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Regulations Relating to Recordation and Enforcement of Trademarks and Copyrights (Part 133 of the CBP Regulations).

OMB Number: 1651–0123.

Form Number: None.

Abstract: Trademark and trade name owners and those claiming copyright protection must provide information sufficient to enable CBP officers to identify violative articles at the borders.

Current Actions: This submission is to extend the expiration date.

Type of Review: Extension (without change to the burden hours).

Affected Public: Businesses, Individuals.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 4,000.

Estimated Total Annualized Cost on the Public: $380,000.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: June 3, 2007.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. E7–11216 Filed 6–8–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Importation of Ethyl Alcohol for Non-Beverage Purposes

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Proposed collection; comments requested.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security 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: Importation of Ethyl Alcohol for Non-Beverage Purposes. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (72 FR 15892) on April 3, 2007, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before July 11, 2007.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Homeland Security/ Customs and Border Protection, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: U.S. Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Importation of Ethyl Alcohol for Non-Beverage Purpose.

OMB Number: 1651–0056.

Form Number: N/A.

Abstract: This collection is a declaration claiming duty-free entry. It is filed by the broker or their agent, and then is transferred with other documentation to the Alcohol and Tobacco Tax and Trade Bureau of the Treasury Department.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 300.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 25.

Estimated Total Annualized Cost on the Public: $544.50.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: June 4, 2007.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. E7–11218 Filed 6–8–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Automated Commercial Environment (ACE); National Customs, Automation Program Test of Automated Truck Manifest for Truck Carrier Accounts; Deployment Schedule

AGENCY: Customs and Border Protection; Department of Homeland Security.

ACTION: General notice.

SUMMARY: U.S. Customs and Border Protection (CBP), in conjunction with the Department of Transportation, Federal Motor Carrier Safety Administration, is currently conducting a National Customs Automation Program (NCAP) test concerning the transmission of automated truck manifest data. This document announces the next group, or cluster, of ports to be deployed for this test.

DATES: All land border ports in the state of Minnesota are expected to be fully deployed for testing by June 8, 2007. Comments concerning this notice and all aspects of the announced test may be submitted at any time during the test period to the contact listed below.

FOR FURTHER INFORMATION CONTACT: Mr. James Swanson via e-mail at *james.d.swanson@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Customs Automation Program (NCAP) test concerning the transmission of automated truck manifest data for truck carrier accounts was announced in a notice published in the **Federal Register** (69 FR 55167) on September 13, 2004. That notice stated that the test of the Automated Truck Manifest would be conducted in a phased approach, with primary deployment scheduled for no earlier than November 29, 2004.

A series of **Federal Register** notices have announced the implementation of the test, beginning with a notice published on May 31, 2005 (70 FR 30964). As described in that document, the deployment sites for the test have been phased in as clusters. The ports identified belonging to the first cluster were announced in the May 31, 2005 notice. Additional clusters were announced in subsequent notices published in the **Federal Register** including: 70 FR 43892, published on July 29, 2005; 70 FR 60096, published on October 14, 2005; 71 FR 3875, published on January 24, 2006; 71 FR 23941, published on April 25, 2006; 71 FR 42103, published on July 25, 2006; 71 FR 77404, published on December 26, 2006; 72 FR 5070, published on February 2, 2007; 72 FR 7058, published on February 14, 2007; and 72 FR 14127, published on March 26, 2007.

New Cluster

Through this notice, CBP announces that the next cluster of ports to be brought up for purposes of deployment of the test, to be fully deployed by June 8, 2007, will be all the land border ports in the state of Minnesota. Specifically, these ports are the following: Grand Portage, Lancaster, Pinecreek, International Falls, Roseau, Baudette, and Warroad.

This deployment is for purposes of the test of the transmission of automated truck manifest data only; the Automated Commercial Environment (ACE) Truck Manifest System is not yet the mandated transmission system for these ports. The ACE Truck Manifest System will become the mandatory transmission system in these ports only after publication in the **Federal Register** of 90 days notice, as explained by CBP in the **Federal Register** notice published on October 27, 2006 (71 FR 62922).

Previous NCAP Notices Not Concerning Deployment Schedules

On Monday, March 21, 2005, a notice was published in the **Federal Register** (70 FR 13514) announcing a modification to the NCAP test to clarify that all relevant data elements are required to be submitted in the automated truck manifest submission. That notice did not announce any change to the deployment schedule and is not affected by publication of this notice. All requirements and aspects of the test, as set forth in the September 13, 2004 notice, as modified by the March 21, 2005 notice, continue to be applicable.

Dated: June 1, 2007.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. E7–11167 Filed 6–8–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–72911; AK–964–1410–KC–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface and subsurface estates in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act, will be issued to Bering Straits Native Corporation. The lands are in the vicinity of Nome, Alaska, named Glacial Lake, and are located in:

Kateel River Meridian, Alaska

T. 7 S., R. 35 W.,
Secs. 11, 14, 24, and 26;
Secs. 34, 35, and 36.
Containing 3,529.44 acres.

T. 8 S., R. 35 W.,
Secs. 1, 2, and 3.
Containing approximately 1,720.00 acres.
Aggregating approximately 5,249.44 acres.

Notice of the decision will also be published four times in the Nome Nugget.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until July 11, 2007 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons

who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Jenny M. Anderson,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E7–11232 Filed 6–8–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–72910; AK–964–1410–KC–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface and subsurface estates in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act, will be issued to Bering Straits Native Corporation. The lands are in the vicinity of Council, Alaska, and are located in:

Kateel River Meridian, Alaska

T. 3 S., R. 21 W.,
Sec. 23, 26, and 35.
Containing approximately 1,841.00 acres.

T. 4 S., R. 21 W.,
Secs. 1, 2, and 3.
Containing approximately 1,920.00 acres.
Aggregating approximately 3,761.00 acres.

Notice of the decision will also be published four times in the Nome Nugget.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until July 11, 2007 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Jenny M. Anderson,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E7–11238 Filed 6–8–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–09–1320–EL, WYW174201]

Coal Lease Exploration License, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation for Coal Exploration License, BTU Western Resources, Inc., WYW174201, Wyoming.

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.C. 201(b), and to the regulations adopted as 43 CFR 3410, all interested parties are hereby invited to participate with BTU Western Resources, Inc. on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described land in Campbell County, WY:

T. 41 N., R. 70 W., 6th P.M., Wyoming
Sec. 7: Lots 7 through 10, 15 through 18;
Sec. 18: Lots 6 through 11, 14 through 19;
T. 41 N., R. 71 W., 6th P.M., Wyoming
Sec. 1: Lots 5 through 20;
Sec. 11: Lots 9 through 12, 15, 16;
Sec. 12: Lots 1 through 16;
Sec. 13: Lots 1 through 16;
Sec. 14: Lots 1, 2, 7 (E½), 8, 9, 16;
Sec. 23: Lots 1, 8 (N½);
Sec. 24: Lots 2 through 4, 5 (N½), 6 (N½), 7 (N½);
T. 42 N., R. 70 W., 6th P.M., Wyoming
Sec. 19: Lots 9 through 20;
Sec. 20: Lots 5 through 16;
Sec. 21: Lots 1 through 16;
Sec. 22: Lots 3 through 6, 9 through 16;
Sec. 26: Lots 3 through 6, 9 through 16;
Sec. 27: Lots 1 through 16;
Sec. 28: Lots 1 through 4;
Sec. 29: Lots 1 through 4;
Sec. 30: Lots 5 through 8;
T. 42 N., R. 71 W., 6th P.M., Wyoming
Sec. 22: Lots 5 through 16;
Sec. 23: Lots 5 through 16;
Sec. 24: Lots 5 through 16;
Sec. 25: Lots 1 through 4;
Sec. 26: Lots 1 through 6, 11 through 14;
Sec. 27: Lots 1 through 16;
Sec. 34: Lots 1 through 16;
Sec. 35: Lots 3 through 6, 11 through 14.
Containing 10,851.115 acres, more or less.

DATES: Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and BTU Western Resources, Inc. as provided in the **ADDRESSES** section below, which must be received within 30 days after publication of this Notice of Invitation in the **Federal Register**.

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW174201): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604. The written notice should be sent to the following addresses: BTU Western Resources, Inc., *Attn:* Robbie Willson, Caller Box 3034, Gillette, WY 82717, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, *Attn:* Julie Weaver, P.O. Box 1828, Cheyenne, WY 82003.

SUPPLEMENTARY INFORMATION: All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Coal Leasing Area. The purpose of the exploration program is to obtain coal quantity, quality and seam structure information for the Wyodak-Anderson coal seam.

This notice of invitation will be published in *The News-Record* of Gillette, WY, once each week for two consecutive weeks beginning the week of June 13, 2007, and in the **Federal Register**.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: April 18, 2007.

Alan Rabinoff,

Deputy State Director, Minerals and Lands.

[FR Doc. E7–10889 Filed 6–8–07; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–1330]

Notice of Intent To Prepare an Environmental Impact Statement To Analyze the Proposed Rinker and Service Rock Products Competitive Mineral Material Sales (NVN–083153 and NVN–082069) for the Sale of Aggregates

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, 40 Code of Federal Regulations (CFR) subparts 1500–1508, and 43 CFR subpart 3600, notice is hereby given that the Bureau of Land Management (BLM), Las Vegas Field Office will be preparing an Environmental Impact Statement (EIS) for the Rinker and Service Rock Projects, two proposed competitive mineral material sales which would result in two open pit limestone quarries that would merge in the future into one open pit, and associated facilities, located on public lands in Clark County, Nevada.

DATES: This notice initiates the public scoping period. Written comments on the scope of the EIS should be post-marked or hand delivered to the BLM Las Vegas Field Office by 4:30 p.m., no later than 30 days after the date of publication of this notice in the **Federal Register** to ensure full consideration. The public will be notified of scoping meetings through the local news media at least 15 days prior to the first meeting. It is anticipated at least two scoping meetings (in Las Vegas, Nevada) will be held during this scoping period.

ADDRESSES: Written scoping comments should be sent to the BLM, Las Vegas Field Office, 1407 North Torrey Pines Drive, Las Vegas, Nevada 89130, ATTN: Edward Seum. Written comments may also be faxed to Edward Seum at (702) 515–5010, or submitted in writing to the BLM at one of the scoping meetings.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Edward Seum, Geologist at the BLM Las Vegas Field Office, or by telephone at (702) 515–5070.

SUPPLEMENTARY INFORMATION: Rinker Materials West, LLC (Rinker) and Service Rock Products Corp. (Service Rock) have submitted requests for the competitive sale of mineral materials along with mining and reclamation plans (NVN–083153 and NVN–082069) to the BLM for the proposed mining projects. The proposed projects would involve public lands in Clark County, Nevada, and would be located approximately 15 miles south of the City of Las Vegas in the following area: Township 23 South, Range 61 East, Section 29, South 1/2, and Section 32, North 1/2, Mt. Diablo Meridian. The project would involve the construction and development of the following primary components: Open pit quarries for development of limestone aggregate; waste rock stockpiles; aggregate stockpiles for use in the production of concrete, asphalt and other products; ancillary facilities (scales, maintenance shop, administrative facilities, and fuel and lubricant storage facilities); primary crusher; conveyor system; offices and laydown yards; ready mix facilities; asphalt hot plant; water supply well(s) and associated rights-of-way for powerlines, access roads, haul, secondary, and access roads; and ancillary facilities including growth media stockpiles, diversion ditches, and stormwater runoff controls.

The mining and processing facilities would operate for approximately 20 years. During the first year, aggregate production would be approximately 500,000 tons. This rate would gradually increase over a four year period to approximately 3,000,000 tons per year. Site closure and final reclamation would be undertaken at the end of mining.

The Rinker and Service Rock mining and reclamation plans will be presented to the public during scoping meetings, and informational letters on the mining and reclamation plans will be mailed to interested parties. The mining and reclamation plans will be available for public review at the BLM's Las Vegas Field Office. The BLM invites public comment on the scope of the analysis, including issues to consider and alternatives to the proposed action. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis and EIS alternatives—in addition to the proposed action, the BLM will explore and objectively evaluate all reasonable alternatives, including the alternative of no action, pursuant to Council on Environmental Quality (CEQ) regulations 1502.14(a) and 1502.14(d).

An interdisciplinary approach will be used to develop the EIS, in order to consider the variety of resource issues and concerns identified. Potential significant direct, indirect, residual, and cumulative impacts from the proposed action and alternatives will be analyzed in the EIS. Significant issues to be addressed in the EIS include air quality impacts, blasting activities, transportation, visual resources, and socioeconomics. Additional issues may be identified during the scoping process. Staff from the BLM will be present at the scoping meetings to explain the environmental review process, the mining regulations, and other requirements for processing the proposed mining and reclamation plans and the associated EIS. Representatives of Rinker and Service Rock will also be available to describe their proposals.

You may submit comments on issues in writing to the BLM at the public scoping meetings, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. 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. To be most helpful, formal scoping comments should be submitted within 30 days after the date of publication of this notice, although comments will be accepted throughout the development of the EIS. Comments received and a list of attendees for each scoping meeting will be made available for public inspection and open for 30 days following each meeting for any participant(s) who wish to clarify their views. Comments and documents pertinent to this proposal, including names and street addresses of respondents, may be examined at the Las Vegas Field Office during regular business hours (7:30 a.m.–4:30 p.m. Monday through Friday, except holidays). Comments may be published as part of the EIS.

Federal, State, and local agencies, as well as individuals or organizations that may be interested in or affected by the BLM's decision on this project are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate as a cooperating agency.

Mark R. Chatterton,

Assistant Field Manager, Nonrenewable Resources, Las Vegas Field Office.

[FR Doc. E7–11208 Filed 6–8–07; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–140–1610–DT–009C]

Notice of Availability of the Record of Decision for the Resource Management Plan Amendment (RMPA) for Portions of the Roan Plateau Planning Area and Supplemental Information for Proposed Areas of Critical Environmental Concern (ACEC) With Associated Resource Use Limitations for Public Lands in Garfield and Rio Blanco Counties, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) and the Federal Land Policy and Management Act (FLPMA), the Bureau of Land Management (BLM) announces the availability of the RMPA/Record of Decision (ROD) pertaining to all lands within the Roan Plateau planning area located in the Glenwood Springs Field Office with the exception of those areas proposed as ACECs in the Proposed Resource Management Plan Amendment/Final Environmental Impact Statement (PRMPA/FEIS). This notice also provides supplemental information and announces an associated 60-day comment period regarding four proposed ACECs identified in the PRMP/FEIS, as required at 43 CFR 1610.7–2(b). Final RMPA decisions for portions of the planning area, which include proposed ACECs, are deferred until comments are analyzed.

DATES: The comment period pertaining to the proposed ACEC designations will commence with the publication of this notice in the **Federal Register**, and will end 60 days following its publication. All comments must be received no later than the close of the last day of the comment period.

ADDRESSES: Copies of the RMPA/ROD for the Roan Plateau planning area and the PRMPA/FEIS are available upon request from the Glenwood Springs Field Office, Bureau of Land Management, 50629 Highways 6 and 24, Glenwood Springs, CO 81601, or via the Internet at *http://www.blm.gov/rmp/co/roanplateau*.

Comments on the proposed ACEC designations should be sent to the above address. Only comments on the proposed ACECs that are identified in the PRMPA/FEIS will be considered. All comments must be in writing. Comments, including names and street addresses of respondents, will be available for public review at the Bureau of Land Management, Glenwood Springs Field Office during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays, and will be subject to disclosure under the Freedom of Information Act (FOIA). 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. All submissions from organizations or businesses, or individuals representing them, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Jamie Connell, Field Manager, Bureau of Land Management Glenwood Springs Field Office, 50629 Highways 6 & 24, Glenwood Springs, CO 81601, or by telephone at (970) 947–2800; or Greg Goodenow at (303) 239–3789.

SUPPLEMENTARY INFORMATION: The Roan Plateau RMPA/ROD was developed with broad public participation through a 6-year collaborative planning process. This RMPA/ROD addresses the management of approximately 52,568 acres of public land in the planning area. Final RMPA decisions for portions of the planning area where ACECs are proposed (approximately 21,034 acres) will be deferred until comments are analyzed and considered from the 60-day public comment period.

This RMPA/ROD includes management actions to meet the desired resource conditions for upland and riparian vegetation, wildlife habitats, cultural and visual resources, mineral resources, and recreation. The approved RMPA/ROD for portions of the Roan Plateau is essentially the same as the Proposed Alternative in the PRMPA/FEIS, published in September 2006. No inconsistencies with State or local plans, policies, or programs were identified during the Governor's consistency review of the PRMPA/FEIS. As a result, only minor editorial modifications were made in preparing the RMPA/ROD for portions of the Roan Plateau planning area. These modifications corrected errors that were noted during review of the PRMPA/FEIS, and provide further clarification for some of the decisions. A list of modifications is included within the RMPA/ROD that identifies the location of the corrections in the PRMPA/FEIS.

BLM received 11 protests to the PRMPA/FEIS. In order to resolve one protest issue raised by the public, the BLM determined that it is also necessary to identify the four proposed ACECs and associated resource use limitations in this NOA that were presented in the PRMPA/FEIS, as well as to provide a 60-day public comment period. Therefore, the proposed ACECs identified in this NOA fulfills a regulatory requirement, and supplements the NOA for the PRMP/FEIS published in the **Federal Register**, Volume 71, Number 173, on Thursday, September 7, 2006.

The BLM accepted and considered input from the public on ACEC values and potential designation during scoping for the RMPA/EIS, during public comment on alternative development, and during the comment period on the Draft RMPA/Draft EIS (DRMPA/DEIS). The alternatives analyzed in the DRMPA/DEIS varied in the number and size of potential ACECs. The DRMPA/DEIS considered the designation of no ACECs in Alternatives I and V (zero acres), two ACECs in Alternatives III and IV (11,529 acres in each alternative), and four ACECs (36,184 acres) in Alternative II.

Input from the public and cooperating agencies was considered in developing the PRMPA/FEIS, which proposes four ACECs (21,034 acres). The four proposed ACECs and their associated relevant and important resource values are as follows: (1) Anvil Points (4,955 acres)—visual resources/aesthetics, wildlife habitat, botanical/ecological values; (2) Magpie Gulch (4,698 acres)—visual resources/aesthetics, wildlife habitat, botanical/ecological values; (3) East Fork Parachute Creek (6,571 acres)—visual resources/aesthetics, wildlife habitat, fisheries habitat, botanical-ecological values; and (4) Trapper/Northwater Creek (4,810 acres)—wildlife habitat, fisheries habitat, botanical/ecological values.

For all proposed ACECs, surface disturbing activities will be limited to protect all relevant and important values within the areas. Such activities include oil and gas development, rights-of-way designation, and road construction. Limitations include no ground disturbance or no surface occupancy prescriptions for activities within the ACECs, as well as site specific relocation or controlled surface use prescriptions. Further, conditions of approval or permitting level requirements may be applied. Detailed discussions of the proposed protective measures for the proposed ACECs are

contained in Table 2–2 and Appendix C of the PRMPA/FEIS.

Dated: March 29, 2007.

Sally Wisely,

State Director, Colorado.

[FR Doc. E7–10964 Filed 6–8–07; 8:45 am]

BILLING CODE 4310–JB–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–3098-MLA; ASLBP No. 07–856–02–MLA–BD01]

Shaw Areva Mox Services; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and the Commission's regulations, *see* 10 CFR 2.104, 2.300, 2.303, 2.309, 2.311, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board is being established to preside over the following proceeding:

Shaw Areva Mox Services; Mixed Oxide Fuel Fabrication Facility (License Application for Possession and Use of Byproduct, Source, and Special Nuclear Materials)

This Board is being established in response to a request for hearing that was filed pursuant to a March 7, 2007 Notice of Opportunity for Hearing (72 FR 12,204 (Mar. 15, 2007)), regarding the request of Shaw AREVA MOX Services for a license application for possession and use of byproduct, source, and special nuclear materials for the mixed oxide fuel fabrication facility in Aiken, South Carolina. MOX Services submitted a license application on September 27, 2006, and after an NRC Staff review, it was determined that modifications were required. On November 16, 2006, a revised license application was submitted by MOX Services and was accepted for docketing via a letter dated December 20, 2006. This proceeding concerns the Petition for Intervention and Request for Hearing submitted by (1) Blue Ridge Environmental Defense League (BREDL), (2) Nuclear Watch South (NWS), and (3) Nuclear Information and Resource Service (NIRS), which was docketed on May 15, 2007.

The Board is comprised of the following administrative judges:

Michael C. Farrar, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Nicholas G. Trikouros, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. William M. Murphy, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed with the administrative judges in accordance with 10 CFR 2.302.

Issued at Rockville, Maryland, this 5th day of June 2007.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. E7–11196 Filed 6–8–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Statement of Policy on Conduct of New Reactor Licensing Proceedings

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of draft policy statement and notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC or the Commission) is considering adopting a statement of policy concerning the conduct of new reactor licensing adjudicatory proceedings in view of the anticipated receipt of a number of applications for combined licenses for nuclear power reactors expected to be filed within the next two years. This draft policy statement is being issued for public comment.

DATES: Comments on this draft policy statement should be submitted by August 10, 2007, and will be considered by the Commission before publishing the final policy statement. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include *Draft Statement of Policy on Conduct of New Reactor Licensing Proceedings* in the subject line of your comments. Comments on this draft policy statement submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* Address questions about our rulemaking Web site to Carol Gallagher (301) 415–5905; e-mail *cag@nrc.gov.* Comments can also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone (301) 415–1966)

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this draft policy statement may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at *http://ruleforum.llnl.gov.*

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/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 problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Robert M. Weisman, Senior Attorney, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1696, e-mail *rmw@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Draft Statement of Policy on Conduct of New Reactor Licensing Proceedings; CLI–07

I. Introduction

Because the Commission anticipates that the first several applications for combined licenses (COLs) for nuclear power reactors will be filed within the next two years, the Commission has re-examined its procedures for conducting adjudicatory proceedings involving power reactor licensing. Such examination is particularly appropriate since the Commission will be considering these COL applications at the same time it expects to be reviewing various design certification and early site permit (ESP) applications, and the COL applications will likely reference design certification rules and ESPs, or design certification and ESP applications. Hearings related to the COL and ESP applications will be conducted within the framework of our Rules of Practice in 10 CFR Part 2, as revised in 2004, and the existing policies applicable to adjudications. The Commission has, therefore, considered the differences between the licensing and construction of the first generation of nuclear plants, which involved developing technology, and the currently anticipated plants, which may be much more standardized than previous plants.

We believe that the 10 CFR Part 2 procedures, as applied to the 10 CFR Part 52 licensing process, will provide a fair and efficient framework for litigation of disputed issues arising under the Atomic Energy Act of 1954, as amended (Act) and the National Environmental Policy Act of 1969, as amended (NEPA), that are material to applications. Nonetheless, we also believe that additional improvements can be made to our process. In particular, the guidance stated in this policy statement is intended to implement our goal of avoiding duplicative litigation through consolidation to the extent possible.

The differences between the new generation of designs and the old, including the degree of standardization, as well as the differences between the 10 CFR Part 50 and 10 CFR Part 52 licensing processes, have led the Commission to review its procedures for treatment of a number of matters. Given the anticipated degree of plant standardization, the Commission has most closely considered the potential benefits of the staff's conducting its safety reviews using a "design-centered" approach, in which multiple applicants would apply for COLs for plants of identical design at different sites, and of consolidation of issues common to such applications before a single Atomic Safety and Licensing Board (licensing board or ASLB). The Commission has also considered its treatment of Limited Work Authorization requests; the timing of litigation of safety and environmental issues; and the order of procedure for hearings on inspections, tests, analyses, and acceptance criteria (ITAAC), which are completed before fuel loading. In considering these matters, the Commission sought to identify procedural measures within the existing Rules of Practice to ensure that particular issues are considered in the agency proceeding that is the most appropriate forum for resolving them, and to reduce unnecessary burdens for all participants.

The new Commission policy builds on the guidance in its current policies, issued in 1981 and 1998, on the conduct of adjudicatory proceedings, which the Commission endorses. *Statement of Policy on Conduct of Adjudicatory Proceedings,* CLI–98–12, 48 NRC 18 (July 28, 1998), 63 FR 41872 (Aug. 5, 1998); *Statement of Policy on Conduct of Licensing Proceedings,* CLI–81–8,13 NRC 452 (May 20, 1981), 46 FR 28533 (May 27, 1981). The 1981 and 1998 policy statements provided guidance to licensing boards on the use of tools, such as the establishment of and adherence to reasonable schedules, intended to reduce the time for completing licensing proceedings while ensuring that hearings were fair and produced adequate records. Since the Commission issued its previous statements, the Rules of Practice in 10 CFR Part 2 have been revised, and licensing proceedings are now usually conducted under the procedures of Subpart L, rather than Subpart G. *See* "Changes to Adjudicatory Process," Final Rule, 69 FR 2182 (Jan. 14, 2004). In addition, we have recently amended our licensing regulations in 10 CFR Parts 2, 50, 51 and 52 to clarify and improve the 10 CFR Part 52 licensing process. This statement of policy thus supplements the 1981 and 1998 statements.

With both the recent revisions to 10 CFR Part 2 and this guidance, the Commission's objectives remain unchanged. As always, the Commission aims to provide a fair hearing process, to avoid unnecessary delays in its review and hearing processes, and to enable the development of an informed adjudicatory record that supports agency decision making on matters related to the NRC's responsibilities for protecting public health and safety, the common defense and security, and the environment. In the context of new reactor licensing under 10 CFR Part 52, members of the public should be afforded an opportunity for hearing on each genuine issue in dispute that is material to the particular agency action subject to adjudication. By the same token, however, applicants for a license should not have to litigate each such issue more than once.

The Commission emphasizes its expectation that the licensing boards will enforce adherence to the hearing procedures set forth in the Commission's Rules of Practice in 10 CFR Part 2, as interpreted by the Commission. In addition, the Commission has identified certain specific approaches for its licensing boards to consider implementing in individual proceedings, if appropriate, to reduce the time for completing new licensing proceedings. The measures suggested in this policy statement can be accomplished within the framework of the Commission's existing Rules of Practice. The Commission may consider further changes to the Rules of Practice as appropriate to enable additional improvements to the adjudicatory process.

II. Specific Guidance

Current adjudicatory procedures and policies provide the latitude to the Commission, its licensing boards and presiding officers to instill discipline in the hearing process and ensure a prompt yet fair resolution of contested issues in adjudicatory proceedings. In the 1981 and 1998 policy statements, the Commission encouraged licensing boards to use a number of techniques for effective case management in contested proceedings. Licensing boards and presiding officers should continue to use these techniques, but should do so with regard for the new licensing processes in 10 CFR Part 52 and the anticipated high degree of new plant standardization, which may afford significant efficiencies.

The Commission's approach to standardization through design certification has the potential for resolving design-specific issues in a rule, which subsequently cannot be challenged through application-specific litigation. *See* § 52.63 (2006). Matters common to a particular design, however, may not have been resolved even for a certified design. For example, matters not treated as part of the design, such as operational programs, may remain unresolved for any particular application referencing a particular certified design. Further, site-specific design matters and satisfaction of ITAAC will not be resolved during

design certification. The timing and manner in which associated design certification and COL applications are docketed may affect the resolution of these matters in proceedings on those applications, e.g., with respect to what forum is appropriate for resolving an issue. As discussed further below, a design-centered review approach for treating such matters in adjudication may yield significant efficiencies in Commission proceedings.

As set forth below, the Commission has identified other approaches, as applied in the context of the current Rules of Practice in 10 CFR Part 2, as well as variations in procedure permitted under the current Rules of Practice that licensing boards should apply to proceedings. The Commission also intends to exercise its inherent supervisory authority, including its power to assume part or all of the functions of the presiding officer in a given adjudication, as appropriate in the context of a particular proceeding. *See,* e.g., *Public Service Co. of New Hampshire* (Seabrook Station, Units 1 and 2), CLI–90–3, 31 NRC 219, 229 (1990). The Commission intends to promptly respond to adjudicatory matters placed before it, and such matters should ordinarily take priority over other actions before the Commissioners. We begin with the docketing of applications.

A. Initial Matters

1. Docketing of Applications

The rules in Part 52 are designed to accommodate a COL applicant's particular circumstances, such that an applicant may reference a design certification rule, an ESP, both, or neither. *See* § 52.79. The rules also allow a COL applicant to reference a design certification or ESP application that has been docketed but not yet granted. *See* §§ 52.27(c) and 52.55(c). Further, we have changed the procedures in § 2.101 to address ESP, design certification, and COL applications, in addition to construction permit and operating license applications. Accordingly, a COL applicant may submit the safety information required of an applicant by §§ 52.79 and 52.80(a) and (b) apart from the environmental information required by § 52.80(c), as is now permitted by § 2.101(a)(5). In addition, we have lengthened the time allowed between submission of parts of an application under § 2.101(a)(5) from six to eighteen months.

Notwithstanding these procedures, the Commission can envision a situation in which an applicant might want to present a particular ESP or COL application for docketing in a manner not currently authorized. For example, an applicant might wish to apply for a COL for a plant identical to those of other applicants under the design-centered approach, and request application of the provisions of 10 CFR Part 52, Appendix N and Part 2, Subpart D, before it has prepared the site-or plant-specific portion of the application. Such an applicant might not be prepared to submit its application as required by the rules, even considering the flexibility afforded by § 2.101(a)(5).

Under such circumstances, the Commission would be favorably disposed to the NRC staff's entertaining a request for an exemption from the requirements of § 2.101. Such an exemption request could be granted if it is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Moreover, because this is a procedural rule established for the effective and efficient processing of applications, the Commission can exercise its inherent authority to approve such exemptions based on similar considerations of effectiveness and efficiency. The Commission strongly discourages piecemeal submission of portions of an application pursuant to an exemption unless such a procedure is likely to afford significant advantages to the design-centered review approach described in more detail below. The Commission intends to monitor requests for exemptions from the requirements of § 2.101, and to issue a case-specific order governing such matters if warranted. Whether a COL application is submitted pursuant to § 2.101 or an exemption, the first part of an application submitted should be complete before the staff accepts that part of the application for docketing. Similarly, the staff should not docket any subsequently submitted portion of the application unless it is complete.

2. Notice of Hearing

As required by § 2.104(a), a Notice of Hearing on an application is to be issued as soon as practicable after the application is docketed. A Notice of Hearing for a complete COL application should normally be issued within about thirty (30) days of the staff's docketing of the application. Section 2.101(a)(5), which provides for submitting applications in two parts, does not specify when the Notice of Hearing should be issued, nor is it clear when a Notice of Hearing would be issued for an application filed in parts under an exemption from § 2.101. With two exceptions, the Commission believes it most efficient to issue a Notice of Hearing only when the entire application has been docketed. The first exception is a construction permit application submitted in accordance with § 2.101(a–1), which results in a decision on early site review. The second exception involves circumstances in which: (1) A complete application is submitted; (2) one or more other applications that identify a design identical to that described in the complete application are submitted; and (3) another application is incomplete with respect to matters other than those common to the complete application. Under such circumstances, the Commission may give notice of the hearing on the complete application, and give notice of the hearing on the other application with respect to the matters common to the complete application. The Commission determination in this regard will consider the extent to which any notice is consistent with the timely completion of staff reviews using the design-centered approach and with the efficient conduct of any required hearing, with due regard for the rights of all parties. Upon submission of information completing the other application, the Commission would give notice of a hearing with respect to that information. Under all other circumstances, the Commission will issue a Notice of Hearing only when a complete application has been docketed in order to avoid piecemeal litigation.

3. Limited Work Authorizations

The Commission has redefined the term "construction" in § 50.10, as well as the provisions governing limited work authorizations. Section 50.10 still contains provisions for limited work authorizations to govern certain structures and associated preparatory work. Accordingly, we are providing additional guidance regarding limited work authorizations.

In all proceedings, the licensing boards should formulate hearing schedules to accommodate any limited work authorization request. Specifically, if an applicant requests a limited work authorization as part of an application, the licensing board should generally schedule the hearings so as to first resolve those issues prerequisite to issuing a limited work authorization. This may lead to hearings on environmental matters and the portions of the Safety Evaluation Report relevant to such findings before commencement of hearings on other issues. Such considerations should be incorporated into the milestones set for each

proceeding in accordance with 10 CFR Part 2, Appendix B.

B. Treatment of Generic Issues

1. Consolidation of Issues Common to Multiple Applications

The Commission believes that generic consideration of issues common to several applications may well yield benefits, both in terms of effective consideration of issues and efficiency. Such benefits would accrue not only to the staff review process, but also to litigation of such matters before the licensing board. We acknowledge that consideration of generic matters common to several applications may be possible in several contexts. For example, an applicant might seek staff review of a corporate program such as quality assurance or security that is common to several of its applications. If contentions on such a program are admitted with respect to more than one application, consolidation of such contentions before a single licensing board may result in more efficient decision making, as well as conserving the parties' resources. Licensing boards should consider consolidating proceedings involving such matters, pursuant to an applicant's motion or pursuant to their own initiative under § 2.317(b). In addition, different applicants may seek COLs for plants of identical design at multiple sites, as in the design-centered review approach, and may therefore seek to implement the provisions of 10 CFR Part 2, Subpart D. In this regard, we have amended Subpart D and Appendix N to 10 CFR Part 52 to provide explicit treatment of COL applications for identical plants at multiple sites.

Because we believe that the design-centered approach is the chief example of circumstances in which generic consideration of issues common to several applications may yield benefits, we discuss that approach in detail below. While much has changed since we first promulgated Subpart D in 1975, we believe many of the concepts originally underpinning Subpart D still apply today, and we presume that Subpart D procedures, as well as other applicable Rules of Practice in 10 CFR Part 2, will be applied to applications employing a design-centered review approach. Our vision for the implementation of a "design-centered" approach under the procedures of Subpart D is set forth below.

As indicated above, issues, such as those involving operational programs or design acceptance criteria, common to several applications referencing a design certification rule or design certification application may be most effectively and efficiently treated with a single review in a "design-centered" approach and, subsequently, in a single hearing. In order to achieve such benefits, however, applicants who intend to apply for licenses for plants of identical design and request the staff to employ the design-centered review approach should submit their applications simultaneously. Subpart D nonetheless affords the licensing board discretion to consolidate applications filed close in time, if this will be more efficient and otherwise provide for a fair hearing. While not required, we believe applicants for COLs for plants of identical design should consolidate the portions of their applications containing common information into a joint submission. In doing so, each applicant would also submit the information required by §§ 50.33(a) through (e) and 50.37 and would identify the location of its proposed facility, if this information has not already been submitted to the Commission.

Appendix N requires that the design of those structures, systems, and components important to radiological health and safety and the common defense and security described in separate applications be identical in order for the Commission to treat the applications under Appendix N and Subpart D. The Commission believes that any variances or exemptions requested from a design certification in this context should be common to all applications. In addition, while not required, the Commission encourages applicants to standardize the balance of their plants insofar as is practicable.

Subpart D provides flexibility in the hearing process. Each application will necessarily involve a separate proceeding to consider site-specific matters, and the required hearings may, as appropriate, be comprised of two (or more) phases, the sequence of which depends on the circumstances. For any of the phases, the hearings may be consolidated to consider common issues relating to all or some of the applications involved.

An applicant requesting treatment of its application under the design-centered approach may seek to submit separate portions of the application at different times, pursuant to § 2.101(a)(5) or an exemption from § 2.101, as discussed above. Under such circumstances, the Commission intends to issue a Notice of Hearing for the portion of the application to be reviewed under the design-centered approach, and a second notice limited to the portion of the application not treated under the design-centered review approach upon submission of the complete application. Such a procedure would not affect any prospective intervenor's substantive rights; i.e., members of the public will still have a right to petition for intervention on every issue material to the Commission's decision on each individual application.

The staff would review the common information in the applications, or in the joint submission, for sufficiency for docketing and, if acceptable, would docket this information as a portion of each application. Each application would be assigned a docket number in connection with the first portion of the application docketed, which could be the common submission. The applicants should designate one applicant to be the single point of contact for the staff review of this common information, and to represent the applicants before the licensing board.

Consistent with our guidance set forth above, we would expect to issue a Notice of Hearing only upon the docketing of at least one complete application that includes the common information. The Notice of Hearing will not only provide an opportunity to petition to intervene in the proceeding on the complete individual application, but will also provide such an opportunity with respect to the information common to all the applications, which would be docketed separately. Accordingly, upon issuance of such a notice, the Chief Judge of the Atomic Safety and Licensing Board Panel (ASLBP or Panel) should, as is the normal practice, designate a licensing board to preside over the application-specific proceeding, and should also designate a licensing board to preside over the consolidated portions of the applications. Initially, these two licensing boards could be the same.

A person having standing with respect to one of the facilities proposed in the applications partially consolidated would be entitled to petition for intervention in the proceeding on the common information. Such a petitioner would be required to satisfy the other applicable provisions of § 2.309 with respect to the application being contested to be admitted as a party to the proceeding on the common information. Petitioners admitted as parties to such a proceeding with respect to a proposed facility for which the application remains incomplete at the time of the initial Notice of Hearing would have an opportunity to propose contentions with respect to the rest of the application upon the docketing of a complete application, but would not need to demonstrate standing a second

time. Those persons granted intervention are required to designate a lead for common contentions, as required by § 2.309(f)(3); as stated above, applicants submitting common information under the design-centered approach would likewise designate a representative to appear before the licensing board. In addition, the presiding officer may require consolidation of parties in accordance with § 2.316.

The Commission is willing to consider other methods of managing proceedings involving consideration of information common to several applications. For example, the Commission does not intend to foreclose the Chief Judge of the Panel from designating a licensing board to preside over common portions of applications on the motion of the applicants, even if separate proceedings have already been convened on one or more of the applications involved. In such a case, however, the applicants should jointly identify the common portions of their respective applications when requesting the Chief Judge to take such action. Petitioners admitted as parties to any affected proceeding would of course have the right to answer such a motion.

As stated above, upon issuance of a Notice of Hearing for a complete plant-specific application that includes information on "common issues," the Chief Judge of the Panel should designate a licensing board to preside over the plant-specific portion of each application that is then complete. Each licensing board, whether designated to consider the common issues or a specific application, should manage its respective portion of the proceedings with due regard for our 1981 and 1998 policy statements. We emphasize that the Chief Judge of the Panel should not designate another licensing board to consider specific aspects of a proceeding unless the standards we enunciated in *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI–98–7, 47 NRC 307, 310–11 (1998) for doing so are met. These standards are that the proceeding involve discrete and separable issues; that multiple licensing boards can handle these issues more expeditiously than a single licensing board; and that the proceeding can be conducted without undue burden on the parties. *Id.*

An initial decision by the licensing board presiding over a proceeding on a joint submission containing information common to more than one plant-specific application will be a partial initial decision for which a party may request review under § 2.341 (as is also provided in Subpart D) and which we may review on our own motion. Such a decision would become part of each initial decision in the individual application proceedings, which will become final in accordance with the regulation that applies depending on which subpart of our Rules of Practice has been applied in a proceeding on a particular application (*e.g.,* § 2.713 under Subpart G; § 2.1210 under Subpart L). Accordingly, a decision on common issues would become final agency action only in the context of final Commission action with respect to an individual application.

Revisions of specific applications during the review process could result in formerly common issues being referred to the licensing board presiding over a specific portion of one or more applications. These issues would be resolved in the normal course of adjudication, but may well result in delay in final determination of the individual application.

2. COL Applications Referencing Design Certification Applications

With respect to a design for which certification has been requested but not yet granted, the Commission intends to follow its longstanding precedent that "licensing boards should not accept in individual license proceedings contentions which are (or are about to become) the subject of general rule making by the Commission." *Duke Energy Corp.* (Oconee Nuclear Station, Units 1, 2, and 3), CLI–99–11, 49 NRC 328, 345 (1999), *quoting Potomac Elec. Power Co.* (Douglas Point Nuclear Generating Station, Units 1 and 2), ALAB–218, 8 AEC 79, 85 (1974). In accordance with these decisions, a licensing board should treat the NRC's docketing of a design certification application as the Commission's determination that the design is the subject of a general rule making. We believe that a contention that raises an issue on a design matter addressed in the design certification application should be resolved in the design certification rule making proceeding, and not the COL proceeding. Accordingly, in a COL proceeding in which the application references a docketed design certification application, the licensing board should refer such a contention to the staff for consideration in the design certification rule making, and hold that contention in abeyance, if it is otherwise admissible. Upon adoption of a final design certification rule, such a contention should be denied.

An individual applicant, nonetheless, may choose to request that the application be treated as a "custom" design, and thereby resolve any specific technical matter in the context of its individual application. An applicant might choose such a course if, for example, the referenced design certification application were denied, or the rule making delayed. The application-specific licensing board would then consider contentions on design issues, which otherwise would have been treated in the design certification proceeding. Similarly, a COL applicant referencing a design certification application may request an exemption from one or more elements of the requested design certification, as provided in § 52.63(b) and Section VIII of each appendix to 10 CFR Part 52 that certifies a design. As set forth in those provisions, such a request is subject to litigation in the same manner as other issues in a COL proceeding. Since the underlying element of the design may change after the exemption request is submitted, such an exemption may ultimately become unnecessary or may need to be reconsidered or conformed to the final design certification rule. Such matters would be considered by an application-specific licensing board. A licensing board considering a COL application referencing a design certification application might conclude the proceeding and determine that the COL application is otherwise acceptable before the design certification rule becomes final. In such circumstances, the license may not issue until the design certification rule is final, unless the applicant requests that the entire application be treated as a "custom" design.

COL applicants should coordinate with vendors applying for certified designs to ensure that decisions on design certification applications do not impede decisions on COL applications. If design certification is delayed, a licensing board considering common technical issues may likewise be delayed.

3. Subsequent Applications Referencing a Design Certification Rule

If initial COL applicants referencing a particular design certification rule succeed in obtaining COLs, the Commission fully expects subsequent COL applicants to reference that design certification rule. In this event, the Commission would expect to develop additional processes to facilitate coordination of proceedings on such applications. We observe, however, that an issue associated with such matters as operational programs or design

acceptance criteria may be resolved through the design-centered review approach for initial applications containing common information, but we do not intend to impose any resolution so obtained on subsequent COL applicants. While there is no requirement to adopt a previously-approved resolution of an issue, and subsequent applicants are free to use the most recent state-of-the-art methods to resolve such issues, we nevertheless urge such applicants to consider adopting previous resolutions in order to maximize plant standardization. If a COL applicant adopts an approach to a technical issue previously found acceptable, no further staff review of the adequacy of the approach is necessary. Rather, the staff review should be limited to verification that the applicant has indeed adopted the previously approved approach and will properly implement it.

C. ITAAC

In first promulgating 10 CFR Part 52 in 1989, we determined that hearings on whether the acceptance criteria in a COL have been met (ITAAC-compliance hearings) would be held in accordance with the Administrative Procedure Act (APA) provisions applicable to determining applications for initial licenses, but that we would specify the procedures to be followed in the Notice of Hearing. *See* § 52.103(b)(2)(i) (1990); 54 FR 15395. In enacting the Energy Policy Act of 1992, Congress subsequently confirmed our authority to adopt 10 CFR Part 52, and by statute accorded us additional discretion to determine procedures, whether formal or informal, for ITAAC-compliance hearings. *See* Atomic Energy Act section 189a.(1)(B)(iv), 42 U.S.C. 2239(a)(1)(B)(iv). We therefore amended § 52.103(d) to provide that we would determine, in our discretion, "appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under [§ 52.103(a)]."

While we recognize that specification of procedures for the treatment of requests for hearings on ITAAC would lend some predictability to the ITAAC compliance process, we are not yet in a position to specify such procedures, since we have not approved even one complete set of ITAAC necessary for issuing a COL. Further, ITAAC-compliance hearings are likely several years distant, and we have no experience with the type and number of hearing requests that we might receive with respect to ITAAC compliance. While it may not be necessary to consider the first requests for ITAAC-compliance hearings in order for us to determine the procedures appropriate to govern such hearings, we believe it premature to specify such procedures now. In addition, the staff is now formulating guidance on the times necessary for the staff to consider different categories of completed ITAAC, and this guidance should assist licensees in scheduling and performing ITAAC so as to minimize the critical path for staff consideration of completed ITAAC.

In view of the above considerations, we have identified one measure to lend predictability to the ITAAC compliance process: The Commission itself will serve as the presiding officer with respect to any request for a hearing filed under § 52.103. In acting as the presiding officer under these circumstances, we will make three initial determinations. First, we will decide whether the person requesting the hearing has shown, *prima facie,* that one or more of the acceptance criteria in the COL have not been, or will not be met, and the attendant public health and safety consequences of such non-conformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety. Second, if we decide to grant a request for a hearing on ITAAC compliance, we will decide, pursuant to § 52.103(c), whether there will be reasonable assurance of adequate protection of the public health and safety during a period of interim operation. Third, we will designate the procedures under which the proceeding shall be conducted. We have amended § 52.103 and our Rules of Practice (§§ 2.309, 2.310, and 2.341) to incorporate these changes.

III. Conclusion

The Commission reiterates its long-standing commitment to the expeditious completion of adjudicatory proceedings while still ensuring that hearings are fair and produce an adequate record for decision. The Commission intends to monitor its proceedings to ensure that they are being concluded in a fair and timely fashion. To this end, the Commission will act in individual proceedings, as appropriate, to provide guidance to licensing boards and parties, and to decide issues in the interest of a prompt and effective resolution of the matters set for adjudication.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 4th day of June 2007.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. E7–11264 Filed 6–8–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Audits of States, Local Governments, and Non-Profit Organizations; Circular A–133 Compliance Supplement

AGENCY: Executive Office of the President, Office of Management and Budget.

ACTION: Notice of availability of the 2007 Circular A–133 Compliance Supplement.

SUMMARY: This notice announces the availability of the 2007 Circular A–133 Compliance Supplement. The notice also offered interested parties an opportunity to comment on the 2007 Circular A–133 Compliance Supplement. The 2007 Supplement adds three programs, as well as, includes seven existing programs combined into two existing clusters. It also deletes two programs, updates for program changes, and makes technical corrections. A list of changes to the 2007 Supplement can be found at Appendix V. Due to its length, the 2007 Supplement is not included in this Notice. See Addresses for information about how to obtain a copy.

DATES: The 2007 Supplement will apply to audits of fiscal years beginning after June 30, 2006 and supersedes the 2006 Supplement. All comments on the 2007 Supplement must be in writing and received by October 31, 2007. Late comments will be considered to the extent practicable.

Due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date.

Electronic mail comments may be submitted to: *Hai_M._Tran@omb.eop.gov*. Please include "A–133 Compliance Supplement—2007" in the subject line and the full body of your comments in the text of the electronic message and as an attachment. Please include your name, title, organization, postal address, telephone number, and E-mail address in the text of the message. Comments may also be submitted via facsimile to 202–395–3952.

Comments may be mailed to Gilbert Tran, Office of Federal Financial Management, Office of Management and Budget, Room 6025, New Executive Office Building, Washington, DC 20503.

ADDRESSES: Copies of the 2007 Supplement may be purchased at any Government Printing Office (GPO) bookstore (*stock number:* 041–001–00643–5). The main GPO bookstore is located at 710 North Capitol Street, NW., Washington, DC 20401, (202) 512–0132. A copy may also be obtained under the Grants Management heading from the OMB home page on the Internet which is located at *http://www.omb.gov* and then select "Grants Management."

FOR FURTHER INFORMATION CONTACT: Recipients should contact their cognizant or oversight agency for audit, or Federal awarding agency, as appropriate under the circumstances. Subrecipients should contact their pass-through entity. Federal agencies should contact Gilbert Tran, Office of Management and Budget, Office of Federal Financial Management, telephone (202) 395–3052.

Linda M. Combs,

Controller.

[FR Doc. E7–11177 Filed 6–8–07; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 6.6 and 213.103.

FOR FURTHER INFORMATION CONTACT: C. Penn, Executive Resources Services Group, Center for Human Resources, Division for Human Capital Leadership and Merit System Accountability, 202–606–2246.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedules A, B, and C between April 1, 2007, and April 30, 2007. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 is published each year.

Schedule A

No Schedule A appointments were approved for April 2007.

Schedule B

No Schedule B appointments were approved for April 2007.

Schedule C

The following Schedule C appointments were approved during April 2007.

Section 213.3303 Executive Office of the President

Office of National Drug Control Policy

QQGS70006 Counselor to the Deputy Director for Demand Reduction. Effective April 13, 2007.

Official Residence of the Vice President

RVGS00005 Deputy Social Secretary and Residence Manager to the Assistant to the Vice President and Deputy Chief of Staff. Effective April 10, 2007.

Section 213.3304 Department of State

DSGS61221 Senior Advisor to the Assistant Secretary for Economic and Business Affairs. Effective April 02, 2007.

DSGS61223 Special Assistant to the Assistant Secretary for Public Affairs. Effective April 02, 2007.

DSGS69721 Staff Assistant to the Director, Policy Planning Staff. Effective April 02, 2007.

DSGS69722 Senior Advisor to the Assistant Secretary for Democracy Human Rights and Labor. Effective April 02, 2007.

DSGS61222 Special Assistant to the Principal Deputy Assistant Secretary. Effective April 12, 2007.

Section 213.3305 Department of the Treasury

DYGS60391 Deputy Scheduler to the Chief of Staff. Effective April 10, 2007.

DYGS00490 Special Advisor to the Special Envoy for China and the Strategic Economic Dialogue. Effective April 25, 2007.

DYGS60277 Speechwriter to the Assistant Secretary (Public Affairs). Effective April 25, 2007.

DYGS00491 Senior Advisor to the Assistant Secretary (Deputy Under Secretary) International Affairs. Effective April 26, 2007.

Section 213.3306 Department of Defense

DDGS17028 Staff Assistant to the Special Assistant to the Secretary of Defense for White House Liaison. Effective April 03, 2007.

DDGS17036 Public Affairs Specialist to the Assistant Secretary of Defense Public Affairs. Effective April 11, 2007.

DDGS17027 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs). Effective April 13, 2007.

DDGS17030 Staff Assistant to the Deputy Assistant Secretary of Defense (North Atlantic Treaty Organization and Europe). Effective April 13, 2007.

DDGS17016 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison. Effective April 18, 2007.

DDGS17031 Special Assistant to the Deputy Under Secretary of Defense (Asian and Pacific Security Affairs) Effective April 18, 2007.

DDGS17033 New Media Development Account Assistant to the Assistant Secretary of Defense Public Affairs. Effective April 18, 2007.

DDGS17035 Staff Assistant to the Deputy Assistant Secretary of Defense (Near East and South Asian Affairs). Effective April 18, 2007.

DDGS17034 Administrative Assistant to the Director, Department of Defense Office of Legislative Counsel. Effective April 24, 2007.

Section 213.3307 Department of the Army

DWGS60032 Special Assistant to the Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) to the General Counsel. Effective April 18, 2007.

Section 213.3308 Department of the Navy

DNGS07152 Confidential Assistant to the Assistant Secretary of the Navy (Research Development and Acquisition). Effective April 18, 2007.

DNGS07194 Attorney Advisor (General) to the General Counsel. Effective April 18, 2007.

Section 213.3310 Department of Justice

DJGS00302 Associate Director to the Deputy Director. Effective April 04, 2007.

Section 213.3311 Department of Homeland Security

DMGS00653 Assistant Director to the Assistant Secretary for Legislative Intergovernmental Affairs. Effective April 02, 2007.

DMGS00655 Coordinator for Local Affairs to the Director, Office of State and Local Government Coordination. Effective April 02, 2007.

DMGS00654 Associate Director, Ready Campaign to the Assistant Secretary for Public Affairs. Effective April 04, 2007.

DMGS00656 Director of Speechwriting to the Assistant Secretary for Public Affairs. Effective April 05, 2007.

DMGS00657 Special Assistant to the Chief of Staff. Effective April 19, 2007.

DMGS00658 Deputy Press Secretary to the Press Secretary. Effective April 19, 2007.

DMGS00662 Special Assistant to the Assistant Secretary, Immigration and Customs Enforcement. Effective April 25, 2007.

Section 213.3312 Department of the Interior

DIGS01101 Congressional Affairs Specialist to the Director, Congressional and Legislative Affairs. Effective April 11, 2007.

DIGS01099 Deputy Director of Scheduling and Advance to the Director of Scheduling and Advance. Effective April 13, 2007.

DIGS01100 Special Assistant to the Deputy Assistant Secretary—Land and Minerals Management. Effective April 19, 2007.

DIGS01102 Special Assistant to the Assistant Secretary for Water and Science. Effective April 23, 2007.

Section 213.3313 Department of Agriculture

DAGS00887 Special Assistant to the Under Secretary for Farm and Foreign Agricultural Services. Effective April 04, 2007.

DAGS00891 Special Assistant to the Assistant Secretary for Congressional Relations. Effective April 06, 2007.

DAGS00888 Special Assistant to the Under Secretary for Rural Development. Effective April 13, 2007.

DAGS00895 Special Assistant to the Under Secretary for Rural Development. Effective April 20, 2007.

DAGS00896 Special Assistant to the Under Secretary for Rural Development. Effective April 20, 2007.

DAGS00889 Senior Counsel to the General Counsel. Effective April 23, 2007.

DAGS00886 Special Assistant to the Administrator. Effective April 26, 2007.

DAGS00892 Confidential Assistant to the Chief, Natural Research Conservation Service. Effective April 26, 2007.

Section 213.3314 Department of Commerce

DCGS00351 Confidential Assistant to the Deputy General Counsel. Effective April 10, 2007.

DCGS00657 Confidential Assistant to the Director, Executive Secretariat. Effective April 10, 2007.

DCGS00687 Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning. Effective April 10, 2007.

DCGS00579 Director for Legislative and Intergovernmental Affairs to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective April 19, 2007.

DCGS00386 Confidential Assistant to the Director, Office of Legislative Affairs. Effective April 26, 2007.

DCGS00686 Director of Advance to the Chief of Staff. Effective April 26, 2007.

Section 213.3315 Department of Labor

DLGS60008 Special Assistant to the Director of Operations. Effective April 02, 2007.

DLGS60145 Intergovernmental Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective April 04, 2007.

DLGS60192 Special Assistant to the Deputy Assistant Secretary for Policy. Effective April 04, 2007.

DLGS60244 Special Assistant to the Executive Assistant to the Secretary. Effective April 05, 2007.

DLGS60178 Staff Assistant to the Executive Secretary. Effective April 10, 2007.

DLGS60230 Staff Assistant to the Associate Deputy Secretary. Effective April 10, 2007.

DLGS60066 Staff Assistant to the Deputy Assistant Secretary for Federal Contract Compliance. Effective April 19, 2007.

DLGS60226 Special Assistant to the Assistant Secretary for Employee Benefits Security. Effective April 26, 2007.

Section 213.3316 Department of Health and Human Services

DHGS60374 Confidential Assistant to the Executive Secretary to the Department. Effective April 04, 2007.

DHGS60053 Confidential Assistant to the Principal Deputy Assistant Secretary for Planning and Evaluation. Effective April 13, 2007.

Section 213.3317 Department of Education

DBGS00609 Special Assistant to the Under Secretary. Effective April 04, 2007.

DBGS00605 Deputy Secretary's Regional Representative to the Director, Regional Services. Effective April 11, 2007.

DBGS00612 Special Assistant to the General Counsel. Effective April 19, 2007.

DBGS00610 Deputy Assistant Secretary for Higher Education Programs to the Assistant Secretary for Postsecondary Education. Effective April 25, 2007.

DBGS00611 Chief of Staff to the Deputy Assistant Secretary. Effective April 25, 2007.

DBGS00614 Confidential Assistant to the Assistant Secretary, Office of Communications and Outreach. Effective April 25, 2007.

DBGS00616 Special Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective April 25, 2007.

DBGS00613 Special Assistant to the Assistant Secretary for Legislation and Congressional Affairs. Effective April 30, 2007.

DBGS00615 Special Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective April 30, 2007.

Section 213.3318 Environmental Protection Agency

EPGS07008 Media Advisor to the Assistant Administrator for Environmental Information. Effective April 10, 2007.

EPGS07006 Confidential Assistant to the Program Manager (Operations). Effective April 12, 2007.

EPGS07005 Program Advisor (Media Relations) to the Deputy Chief of Staff (Operations). Effective April 16, 2007.

EPGS07003 Deputy of Advance to the Director of Advance. Effective April 25, 2007.

EPGS07004 Communications Specialist to the Principal Deputy Assistant Administrator for Enforcement and Compliance Assurance. Effective April 25, 2007.

Section 213.3331 Department of Energy

DEGS00582 Special Assistant to the Chief of Staff. Effective April 13, 2007.

DEGS00586 Director, Office of Technology Advancement and Outreach to the Chief Operating Officer for Energy Efficiency and Renewable Energy. Effective April 19, 2007.

DEGS00573 Senior Counsel to the General Counsel. Effective April 20, 2007.

DEGS00587 Special Assistant to the Chief of Staff. Effective April 25, 2007.

DEGS00583 Special Assistant to the Chief of Staff. Effective April 26, 2007.

DEGS00589 Senior Advisor to the Chief Operating Officer for Energy Efficiency and Renewable Energy. Effective April 26, 2007.

Section 213.3332 Small Business Administration

SBGS00614 Senior Advisor to the Deputy Administrator. Effective April 11, 2007.

Section 213.3337 General Services Administration

GSGS00187 Deputy Associate Administrator for Congressional and Intergovernmental Affairs to the Principal Deputy Associate Administrator for Congressional and Intergovernmental Affairs. Effective April 05, 2007.

GSGS00188 Senior Advisor to the Regional Administrator (Region Viii-Denver). Effective April 30, 2007.

Section 213.3384 Department of Housing and Urban Development

DUGS60575 Special Assistant to the Assistant Deputy Secretary for Field Policy and Management. Effective April 10, 2007.

Section 213.3391 Office of Personnel Management

PMGS60057 Special Assistant to the Director, Office of Communications and Public Liaison. Effective April 13, 2007.

Section 213.3392 Federal Labor Relations Authority

FAGS60023 Management Assistant to the General Counsel. Effective April 04, 2007.

Section 213.3394 Department of Transportation

DTGS60379 Confidential Assistant to the Assistant to the Secretary and Director of Public Affairs. Effective April 06, 2007.

DTGS60199 Special Assistant to the Associate Administrator for Communications and Legislative Affairs. Effective April 13, 2007.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

Office of Personnel Management.

Tricia Hollis,

Chief of Staff/Director of External Affairs.

[FR Doc. E7–11217 Filed 6–8–07; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 31, SEC File No. 270–537, OMB Control No. 3235–0597

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) requires the Commission to collect fees and assessments from national securities exchanges and national securities associations (collectively, "self-regulatory organizations" or "SROs") based on the volume of their securities transactions. To collect the proper amounts, the Commission adopted Rule 31 (17 CFR 240.31) and Form R31 (17 CFR 240.11) under the Exchange Act whereby the SROs must report to the Commission the volume of their securities transaction and the Commission, based on that data, calculates the amount of fees and assessments that the SROs owe pursuant to Section 31. Rule 31 and Form R31 require the SROs to provide this data on a monthly basis.

The Commission estimates that each respondent makes approximately 12 such filings on an annual basis at an average hourly burden of approximately 1.6 hours per response. Currently, 15 respondents (14 national securities exchanges and one national securities association) are subject to the collection of information requirements of Rule 31. The Commission estimates that the total burden for all respondents is 288 hours (12 filings/respondent per year × 1.6 hours/filing × 15 respondents) per year.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or by sending an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to the Office of Management and Budget within 30 days of this notice.

Dated: June 4, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11156 Filed 6–8–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Form N–CSR, SEC File No. 270–512, OMB Control No. 3235–0570.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

The title for the collection of information is "Form N–CSR (17 CFR 249.331 and 17 CFR 274.128) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) ("Securities Exchange Act") and under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) ("Investment Company Act"), Certified Shareholder Report of Registered Management Investment Companies." Form N–CSR is a combined reporting form used by management investment companies to file certified shareholder reports under the Investment Company Act and under the Securities Exhange Act. Form N–CSR is to be used for reports under section 30(b)(2) of the Investment Company Act and section 13(a) or 15(d) of the Securities Exchange Act, filed pursuant to rule 30b2–1(a) under the Investment Company Act (17 CFR 270.30b2–1(a)). Form N–CSR reports are to be filed with the Commission not later than 10 days after the transmission to stockholders of any report that is required to be transmitted to stockholders under rule 30e–1 under the Investment Company Act (17 CFR 270.30e–1). The information provided on Form N–CSR may be used by the Commission in its regulatory, disclosure review, inspection, and policymaking roles. The information filed with the Commission also permits the verification of compliance with

securities law requirements and assures the public availability and dissemination of the information.

The Commission estimates that there are 7,300 reports filed on Form N–CSR annually and that the average number of portfolios referenced in each filing is 2.5. The Commission further estimates that the hour burden for preparing and filing a report on Form N–CSR is 7.57 hours per portfolio. Given that filings on Form N–CSR are filed semi-annually, filings on Form N–CSR require 15.14 hours per portfolio each year. The total annual hour burden for Form N–CSR, therefore, is estimated to be 138,153 hours.

The information collection requirements imposed by Form N–CSR are mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312, or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 4, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11159 Filed 6–8–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension: Form S–8, OMB Control No. 3235–0066, SEC File No. 270–66

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form S–8 (17 CFR 239.16b) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) is the primary registration statement used by qualified registrants to register securities issuers in connection with employee benefit plans. Form S–8 provides verification of compliance with securities law requirements and assures the public availability and dissemination of such information. The likely respondents will be companies. The information must be filed with the Commission on occasion. Form S–8 is a public document. All information provided is mandatory. We estimate that 50% of the 24 hours per response (12 hours per response) is prepared by the filer for a total annual reporting burden of 46,164 hours (12 hours per response × 3,847 responses).

An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 4, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11160 Filed 6–8–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submissions for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extensions:

Rule 155, OMB Control No. 3235–0549, SEC File No. 270–492; Rule 477, OMB Control No. 3235–0550, SEC File No. 270–493

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget these requests for extension of the previously approved collections of information discussed below.

Rule 155 (17 CFR 230.155) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) provides safe harbors for a registered offering following an abandoned private offering, or a private offering following an abandoned registered offering, without integrating the registered and private offerings in either case. Rule 155 requires any prospectus filed as a part of a registration statement after a private offering to include disclosure regarding abandonment of the private offering. Similarly, the rule requires an issuer to provide each offeree in a private offering following an abandoned registered offering with: (1) Information concerning withdrawal of the registration statement; (2) the fact that the private offering is unregistered; and (3) the legal implications of the offering's unregistered status. The likely respondents will be companies. All information submitted to the Commission is available to the public for review. Companies only need to satisfy the Rule 155 information requirements if they wish to take advantage of the rule's safe harbors. The Rule 155 information is required only on occasion. Rule 155 takes approximately 4 hours per response to prepare and is filed by 600 respondents. We estimate that 50% of the 4 hours per response (2 hours per response) is prepared by the filer for a total annual reporting burden of 1,200 hours (2 hours per response × 600 responses).

Rule 477 (17 CFR 230.477) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) sets forth procedures for withdrawing a registration statement or any amendment or exhibits thereto. The rule provides that if a registrant applies for withdrawal in anticipation of reliance on Rule 155's registered-to-private safe harbor, the registrant must state in the withdrawal application that the registrant plans to undertake a subsequent private offering in reliance on the rule. Without this statement, the Commission would not be able to monitor issuers' reliance on, and compliance with, Rule 155(c). The likely respondents will be companies. All information submitted to the Commission under Rule 477 is available

to the public for review. Information provided under Rule 477 is mandatory. The information is required on occasion. We estimate that 300 issuers will file Rule 477 submissions annually at an estimated one hour per response for a total annual burden of 300 hours. We estimate that 100% of the reporting burden is prepared by the issuer.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 4, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11161 Filed 6–8–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 15c2–2, SEC File No. 270–538, OMB Control No. 3235–0598

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Proposed rule 15c2–2 (17 CFR 240.15c2–2) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) would provide investors in mutual fund shares, UIT interests and college savings plan interests with information in transaction confirmations, including information about certain distribution-related costs and certain distribution arrangements that create conflicts of interest for brokers, dealers, municipal securities dealers, and their associated persons. Proposed rule 15c2–2 specifically would require confirmation disclosure of information about loads and other distribution-related costs that directly impact the returns earned by investors in those securities. It also would require brokers, dealers and municipal securities dealers to disclose their compensation for selling those securities, and to disclose information about revenue sharing arrangements and portfolio brokerage arrangements that create conflicts of interest for them. Moreover, the proposed rule would require brokers, dealers and municipal securities dealers to inform customers about whether their salespersons or other associated persons receive extra compensation for selling certain covered securities.

In addition, the Commission, the self-regulatory organizations, and other securities regulatory authorities would be able to use records of confirmations delivered pursuant to proposed rule 15c2–2 in the course of examinations, and investigations, as well as enforcement proceedings against brokers, dealers and municipal securities dealers. However, no governmental agency would regularly receive any of the information described above.

Proposed rule 15c2–2 potentially would apply to all of the approximately 5,338 brokers, dealers and municipal securities dealers that are registered with the Commission and that are members of NASD. It would also potentially apply to approximately 62 additional municipal securities dealers. The staff estimates that the annual burden for complying with the requirements of proposed rule 15c2–2 would be 18.7 million hours and that the annual costs of complying with the requirements of proposed rule 15c2–2, including the printing and postal costs for generating and sending confirmations, would be $1.05 billion. We note that many of these costs and burdens, including the majority of the annual costs and burdens, would be shifted from rule 10b–10 (17 CFR 240.10b–10) to proposed rule 15c2–2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *David_Rostker@omb.eop.gov* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 4, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11162 Filed 6–8–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 15c2–3, SEC File No. 270–539, OMB Control No. 3235–0599

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Proposed rule 15c2–3 (17 CFR 240.15c2–3) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) would require brokers, dealers and municipal securities dealers to provide point of sale disclosure to investors prior to effecting transactions in mutual fund shares, UIT interests and college savings plan interests. The disclosure would provide investors with targeted material information about distribution-related costs and remuneration that lead to conflicts of interest for their brokers, dealers or municipal securities dealers. The collection of information under proposed rule 15c2–3 would require some of the disclosure that is also required under rule 15c2–2. However, in contrast to the confirmation disclosure required under proposed rule 15c2–2, which a customer will not receive in writing until after a

transaction has been effected, the point of sale disclosure that would be required under rule 15c2–3 would specifically require that investors be provided with information that they can use at the time they determine whether to enter into a transaction to purchase one of the covered securities.

In addition, the Commission, the self-regulatory organizations, and other securities regulatory authorities would be able to use records of point of sale disclosure delivered pursuant to proposed rule 15c2–3 in the course of examinations, and investigations, as well as enforcement proceedings against brokers, dealers and municipal securities dealers. However, no governmental agency would regularly receive any of the information described above.

Proposed rule 15c2–2 potentially would apply to all of the approximately 5,338 brokers, dealers and municipal securities dealers that are registered with the Commission and that are members of NASD. It would also potentially apply to approximately 62 additional municipal securities dealers. It is important to note, however, that the confirmation is a customary document used by the industry.

The Commission staff estimates that the annual burden for complying with the requirements of proposed rule 15c2–3 would be 18.7 million hours and that the annual costs of complying with the requirements of proposed rule 15c2–3, including call center services, and recordkeeping and compliance costs, would be $40 million.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *David_Rostker@omb.eop.gov* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 4, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11163 Filed 6–8–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 17a–1, SEC File No. 270–244, OMB Control No. 3235–0208

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a–1 (17 CFR 240.17a–1) under the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a *et seq.*) requires that all national securities exchanges, national securities associations, registered clearing agencies, and the Municipal Securities Rulemaking Board keep on file for a period of five years, two years in an accessible place, all documents that they make or receive respecting their self-regulatory activities, and that such documents be available for examination by the Commission.

The Commission staff estimates that the average number of hours necessary for compliance with the requirements of Rule 17a–1 is 50 hours per year. There are 22 entities required to comply with the rule: 10 national securities exchanges, 1 national securities association, 10 registered clearing agencies, and the Municipal Securities Rulemaking Board. In addition, 3 national securities exchanges notice-registered pursuant to Section 6(g) of the Act are required to preserve records of determinations made under Rule 3a55–1, which the Commission staff estimates will take 1 hour per exchange, for a total of 3 hours. Accordingly, the Commission staff estimates that the total number of hours necessary to comply with the requirements of Rule 17a–1 is 1,103 hours. The average cost per hour is $50. Therefore, the total cost of compliance for the respondents is $55,150.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to: R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 60 days of this notice.

Dated: June 4, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11164 Filed 6–8–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

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 meetings during the week of June 11, 2007:

Open Meetings will be held on Tuesday, June 12, 2007 at 9 a.m. and Wednesday, June 13, 2007 at 10 a.m., in the Auditorium, Room L–002. A Closed Meeting will be held on Thursday, June 14, 2007 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Campos, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Open Meeting scheduled for Tuesday, June 12, 2007 at 9 a.m. will be:

The Commission will hold a roundtable discussion regarding selective mutual recognition of foreign jurisdictions. The discussion will address the implications of granting foreign market participants access to U.S. investors under an abbreviated registration system, provided those entities are supervised in a foreign jurisdiction that has a securities regulatory regime substantially comparable (but not necessarily identical) to that in the United States. The roundtable will explore whether selective mutual recognition would benefit U.S. investors by providing greater cross-border access to foreign investment opportunities while preserving investor protection.

The subject matter of the Open Meeting scheduled for Wednesday, June 13, 2007 at 10 a.m. will be:

1. The Commission will consider whether to adopt amendments to the grandfather provision of Rule 203 of Regulation SHO and the market decline limitation of Rule 200(e)(3).
2. The Commission will consider whether to re-propose amendments to the options market maker exception to the close-out requirement of Regulation SHO and the marking requirements of Rule 200(g) of Regulation SHO.
3. The Commission will consider whether to adopt amendments to the short sale price test of Rule 10a–1. In addition, the Commission will consider whether to adopt an amendment to the "short exempt" marking requirement of Regulation SHO.
4. The Commission will consider whether to adopt amendments to Rule 105 of Regulation M that would further safeguard the integrity of the capital raising process and protect issuers from manipulative activity that can reduce issuers' offering proceeds and dilute security holder value.

The subject matter of the Closed Meeting scheduled for Thursday, June 14, 2007 will be:

Formal orders of investigations;
Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings of an enforcement nature;
Resolution of litigation claims;
Other matters related to enforcement proceedings; and
An adjudicatory matter.

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: June 6, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11261 Filed 6–8–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55853; File No. SR–CBOE–2007–56]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Market-Maker Obligations

June 4, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 30, 2007, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared substantially by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE's rules relating to Market-Maker obligations. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com*), at the Exchange's Office of the Secretary and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 23, 2007, the Commission approved CBOE's proposed rule change to permit thirteen option classes to trade in penny increments in connection with the Penny Pilot Program.[5] In its proposed rule change, CBOE discussed the various quote mitigation strategies that it had already implemented and intended to implement. One of the quote mitigation strategies was to amend Rule 8.7 to modify the continuous electronic quoting obligation of Market-Makers and Remote Market-Makers ("RMMs"). Specifically, CBOE amended these obligations to provide that Market-Makers and RMMs shall provide continuous electronic quotes in 60% of the series of his/her appointed class that have a time to expiration of less than nine months. CBOE noted that this was consistent with its Rule 5.8.

Because CBOE's rule filing relating to the Penny Pilot Program was only approved on a six-month pilot basis (which is scheduled to expire on July 26, 2007), including apparently the proposed change to the continuous electronic quoting obligation of Market-Makers and RMMs, CBOE requests that the change to continuous electronic quoting obligations be approved on a permanent basis.[6] CBOE notes that this quote mitigation strategy is similar to Phlx Rule 1014(b)(ii)(D)(4).[7]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) Act[9] requirements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 55154, 72 FR 4743 (February 1, 2007).

[6] It is unclear from the approval order whether the proposed change to the continuous electronic quoting obligation of Market-Makers and RMMs was intended to be approved only on a six-month pilot basis, as opposed to the changes to the minimum increments for the thirteen option classes participating in the Penny Pilot Program.

[7] *See* Securities Exchange Act Release No. 55689 (May 1, 2007), 72 FR 26192 (May 8, 2007) (granting immediate effectiveness to SR–Phlx–2007–36).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2007–56 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–CBOE–2007–56. 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 CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–56 and should be submitted on or before July 2, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11158 Filed 6–8–07; 8:45 am]

BILLING CODE 8010–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). The Exchange provided the Commission with written notice of its intention to file the proposed rule change on May 16, 2007.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55832; File No. SR–NASDAQ–2007–040]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval to a Proposed Rule Change Relating to the Waiver of Fees upon Relisting of Companies Removed for Late Filings

May 31, 2007.

On April 4, 2007, The NASDAQ Stock Market LLC ("Nasdaq") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to waive fees upon the relisting of companies removed for late filings. The proposed rule change was published for comment in the **Federal Register** on April 25, 2007.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

In its filing, Nasdaq proposed to allow, in certain circumstances, a company to relist without paying a new entry and application fee if the company was delisted solely for the failure to file a required periodic report with the Commission or other appropriate regulatory authority. In addition, Nasdaq proposed to delete separate, duplicative provisions in its rules.

Nasdaq has proposed to waive the entry and application fee for any company that was suspended [4] and/or delisted from the Nasdaq Stock Market solely for its failure to file a required periodic report with the Commission or other appropriate regulatory authority, if the company regains compliance with this requirement and applies to relist on Nasdaq within one year of the date it was delisted from Nasdaq.[5] In addition,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55645 (April 19, 2007), 72 FR 20572.

[4] Nasdaq Rule 4802(f) requires a security to meet the requirements for initial listing (which include the requirement to pay the applicable listing fees) if the security has been the subject of a decision to delist by a Listing Qualifications Panel, the Nasdaq Listing and Hearing Review Council or the Nasdaq Board.

[5] The Commission notes that Nasdaq has the authority under its rules to waive fees on a case-by-case basis. *See* Securities Exchange Release No. 28731 (January 2, 1991), 56 FR 906 (January 9, 1991) (SR–NASD–90–61). The Commission notes that it is not, as a general matter, appropriate to allow for the waiver of fees to one class of non-members, while excluding other non-members from such class, without first providing interested persons an opportunity to comment on the proposed rule change pursuant to section 19(b)(2) under the Act.

if such a company relists during the same calendar year that it has previously paid an annual fee, the company will not be subject to a second annual fee in that same year.

Nasdaq believes that this waiver is appropriate given that, on average, the review of such an issuer is likely to be simpler than the typical application for several reasons. First, because these companies were previously listed on Nasdaq and compliant with all requirements except the filing requirement, Nasdaq believes it is more likely that they will be compliant with all other quantitative and qualitative requirements. Further, Nasdaq notes that relevant information about these companies is already contained in Nasdaq's compliance systems. Finally, in its filing, Nasdaq states that it anticipates there would be fewer questions concerning the company's financial statements given that these companies will often have undergone extensive review by their auditors and, in some cases, by independent investigators and the Commission or other regulatory entities, in order to resolve the issues that caused the late filings.[6]

Nasdaq is implementing these waivers as an incentive for companies to re-list on Nasdaq upon regaining compliance with the periodic filing requirement. Nasdaq believes that this waiver is appropriate since Nasdaq's rules governing the delisting of companies that are delinquent in periodic reports are generally stricter than those of other markets. Nasdaq believes that the proposed waivers will promote competition between Nasdaq and other exchange markets.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposal is consistent with Section 6(b)(4) of the Act,[8] which requires that an exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Commission also finds that the proposal is consistent with Section 6(b)(5) of the Act,[9] which requires, *inter alia*, that the rules of a national securities exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system and not designed to permit unfair discrimination between issuers.

The Commission notes that Nasdaq has represented that the waiver of listing fees should not have a material financial impact on the exchange, or impact Nasdaq's resource commitment to its regulatory oversight of the listing process or its regulatory programs.

In addition, the proposal does not have any impact on whether a company is actually eligible to list on Nasdaq. Nasdaq has represented that a complete review of compliance with listing standards will be conducted for any company seeking to take advantage of the fee waiver, just as for any company that applies for listing on Nasdaq. Nasdaq has also represented that any fee waiver granted under this rule is predicated upon the company successfully completing the review process and demonstrating compliance with the initial listing standards.

Finally, the Commission notes that companies eligible for the fee waiver have previously paid entry and annual fees to Nasdaq. Under the fee waiver, companies must reapply within one year of delisting and are eligible for the wavier of the annual fee only if they relist during the same year for which the annual fee had previously been paid. The Commission believes it reasonable for Nasdaq to conclude that eligible companies should not be charged duplicate fees if they relist within such time periods.

Based on the above, the Commission agrees that the proposed waiver does not constitute an inequitable allocation of reasonable dues, fees, and other charges, does not permit unfair discrimination between issuers, and is generally consistent with the Act.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (File No. SR–NASDAQ–2007–040) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11157 Filed 6–8–07; 8:45 am]

BILLING CODE 8010–01–P

[6] The Commission notes that the timely filing of accurate financial reports under the Act is critical to investors and out national market and assures that investors receive up to date financial information about listed companies.

[7] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55861; File No. SR–NASDAQ–2007–054]

Self-Regulatory Organizations; the NASDAQ Stock Market LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Trade the Shares of the iShares GSCI Commodity-Indexed Trust Pursuant to Unlisted Trading Privileges

June 5, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 18, 2007, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. This order provides notice of the proposed rule change and approves the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to trade shares of the iShares GSCI Commodity-Indexed Trust (the "Trust") pursuant to unlisted trading privileges ("UTP"). The text of the proposed rule change is available at Nasdaq, the Commission's Public Reference Room, and *nasdaq.complinet.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to Nasdaq Rule 4630, which permits the Exchange to approve for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

UTP trading a "commodity-related security" that is issued by a trust, partnership, commodity pool, or similar entity that invests in any combination of commodities, futures contracts, options on futures contracts, forward contracts, commodity swaps, or other related derivatives, the Exchange proposes to trade pursuant to UTP the shares of the Trust (the "Shares").[3] The Shares are currently trading on Nasdaq on a three-month pilot basis,[4] and approval of this proposed rule change would allow the Shares to continue to trade after the expiration of the pilot. The Commission previously approved a proposal to list and trade the Shares on the New York Stock Exchange LLC ("NYSE").[5]

The Shares represent fractional undivided beneficial interests in the net assets of the Trust. Substantially all of the assets of the Trust consist of its holdings of the limited liability company interests of a commodity pool ("Investing Pool Interests"), which are the only securities in which the Trust may invest. The commodity pool, iShares GSCI Commodity-Indexed Investing Pool LLC ("Investing Pool"), holds long positions in futures contracts on the GSCI Excess Return Index ("GSCI–ER"), called "CERFs," which are listed on the Chicago Mercantile Exchange ("CME") and posts margin in the form of cash or short-term securities to collateralize these futures positions. The GSCI–ER is calculated based on the same commodities included in the Goldman Sachs Commodity Index ("GSCI"), which is a production-weighted index of the prices of a diversified group of futures contracts on physical commodities. The GSCI is administered, calculated, and published by Goldman, Sachs & Co. (the "Index Sponsor"), a subsidiary of The Goldman Sachs Group Inc.

The Trust's objective is for the performance of the Shares to correspond generally to the performance of the GSCI Total Return Index ("Index") before payment of the Trust's and the Investing Pool's expenses and liabilities. The Index is intended to reflect the performance of a diversified group of commodities. The Trust and Investing Pool are each commodity pools, as defined in the Commodity Exchange Act and the applicable regulations of the Commodity Futures Trading Commission.

Descriptions of the Shares, the Investing Pool, the futures contracts, the Index, the GSCI–ER, the GSCI, and the fees and expenses of the Trustee are set forth in the NYSE Proposal. To summarize, issuances of Shares are made only in baskets of 50,000 Shares or multiples thereof ("Baskets"). The Trust issues and redeems the Shares on a continuous basis, by or through participants that have entered into participant agreements (each, an "Authorized Participant") with Barclays Global Investors International, Inc. (the "Sponsor") and Barclays Global Investors, N.A. (the "Trustee").

Baskets are issued only in exchange for an amount of CERFs and cash (or, at the discretion of the Trustee, Short-Term Securities[6] in lieu of cash) equal to the Basket Amount (as defined herein) for the business day on which the creation order was received by the Trustee. The "Basket Amount" for a business day has a per-Share value equal to the Net Asset Value ("NAV") of the Trust as of such day. However, orders received by the Trustee after 2:40 p.m. Eastern Time ("ET") are treated as received on the next following business day. The Trustee notifies the Authorized Participants of the Basket Amount on each business day. Baskets are then separable upon issuance into the Shares that are traded on Nasdaq on a UTP basis.

The Shares are not individually redeemable but are redeemable only in Baskets. To redeem, an Authorized Participant is required to accumulate enough Shares to constitute a Basket (*i.e.*, 50,000 Shares). An Authorized Participant that wishes to redeem a Basket receives an amount of CERFs and cash (or, at the discretion of the Trustee, Short-Term Securities in lieu of cash) equal to the Basket Amount on the business day the redemption request is received by the Trustee, in exchange for each Basket surrendered. However, redemption requests received by the Trustee after 2:40 p.m. ET (or, on any day on which CME is scheduled to close early, after the close of trading of CERFs on CME on such day), are treated as received on the next following business day. The operation of the Trust and creation and redemption process are described in more detail in the NYSE Proposal.

On each business day on which NYSE is open for regular trading, as soon as practicable after the close of regular trading of the Shares on NYSE (normally, 4:15 p.m. ET), the Trustee determines the NAV as of that time. The calculation methodology for the NAV is described in more detail in the NYSE Proposal.

The NAV for the Shares on each business day on which NYSE is open for regular trading is distributed to all market participants at the same time. The NAV is distributed through major market data vendors and is published online at *http://www.ishares.com*. The Trust updates the NAV as soon as practicable after each subsequent NAV is calculated.

The Web site for the Trust (*http://www.ishares.com*), which is publicly accessible at no charge, contains the following information: (1) The prior business day's NAV and the reported closing price; (2) the midpoint of the bid-ask price in relation to the NAV as of the time the NAV is calculated (the "Bid-Ask Price");[7] (3) calculation of the premium or discount of such price against such NAV; (4) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four previous calendar quarters; (5) the prospectus; (6) the holdings of the Trust, including CERFs, cash, and Treasury securities; (7) the Basket Amount; and (8) other applicable quantitative information. Nasdaq, on its Web site at *http://www.nasdaq.com*, includes a hyperlink to the Trust's Web site.

As described above, the NAV for the Trust is calculated and disseminated daily. According to the NYSE Proposal, NYSE disseminates from 9:30 a.m. to 4:15 p.m. ET daily by means of CTA/CQ High Speed Lines information with respect to the Indicative Trust Value ("ITV"), recent NAV, and Shares outstanding.

In order to provide updated information relating to the Trust for use by investors, professionals, and other persons, NYSE disseminates through the facilities of CTA an updated ITV on a per-Share basis. The ITV is disseminated at least every 15 seconds from 9:30 a.m. to 4:15 p.m. ET. The ITV is calculated based on the cash and collateral in a Basket Amount, *divided* by 50,000, and adjusted to reflect the market value of the Index commodities

[3] E-mail from John Yetter, Deputy General Counsel, Nasdaq, to Edward Cho, Special Counsel, Division of Market Regulation, Commission, dated May 31, 2007 (confirming the Nasdaq rule governing the UTP trading of the Shares).

[4] *See* Securities Exchange Act Release No. 55386 (March 2, 2007), 72 FR 10801 (March 9, 2007) (SR–NASDAQ–2007–016) (approving the trading of 16 commodity-related securities, including the Shares, pursuant to UTP for a pilot period of three months beginning on March 5, 2007) ("Pilot Order").

[5] *See* Securities Exchange Act Release Nos. 53659 (April 17, 2006), 71 FR 21074 (April 24, 2006) (SR–NYSE–2006–17) ("NYSE Proposal") and 54013 (June 16, 2006), 71 FR 36372 (June 26, 2006) ("NYSE Approval Order").

[6] "Short-Term Securities" means U.S. Treasury securities or other short-term securities and similar securities, in each case that are eligible as margin deposits under the rules of CME.

[7] The Bid-Ask Price of the Shares is determined using the highest bid and lowest offer as of the time of calculation of the NAV.

through investments held by the Investing Pool, *i.e.*, CERFs. The ITV will not reflect price changes to the price of an underlying commodity between the close of trading of the futures contract at the relevant futures exchange and the close of trading on Nasdaq. Accordingly, the value of a Share may be influenced by non-concurrent trading hours between Nasdaq and the various futures exchanges on which the futures contracts based on the Index commodities are traded.

When the market for futures trading for each of the Index commodities is open, the ITV can be expected to closely approximate the value per Share of the Basket Amount. However, during Nasdaq trading hours when the futures contracts have ceased trading, spreads and resulting premiums or discounts may widen and, therefore, may increase the difference between the price of the Shares and the NAV of the Shares. ITV on a per-Share basis should not be viewed as a real-time update of the NAV, which is calculated only once a day.

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities, including Nasdaq Rule 4630. The Shares will trade on Nasdaq from 9:30 a.m. until 4:15 p.m. ET.

Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 (Trading Halts) and 4121 (Market Closings). The conditions for a halt include a regulatory halt by the original listing market. UTP trading in the Shares will also be governed by provisions of Nasdaq Rule 4120 relating to temporary interruptions in the calculation or wide dissemination of the ITV or the value of the Index. Additionally, Nasdaq may cease trading the Shares if other unusual conditions or circumstances exist which, in the opinion of Nasdaq, make further dealings on Nasdaq detrimental to the maintenance of a fair and orderly market. Nasdaq will also follow any procedures with respect to trading halts as set forth in Nasdaq Rule 4120(c). Finally, Nasdaq will stop trading the Shares if the original listing market delists them.

Nasdaq believes that its surveillance procedures are adequate to address any concerns about the trading of the Shares on Nasdaq. Trading of the Shares through Nasdaq facilities is currently subject to NASD's surveillance procedures for equity securities, in general, and ETFs, in particular.[8] Nasdaq is able to obtain information regarding trading in the Shares and the underlying futures contracts through its members in connection with the proprietary or customer trades that such members effect on any relevant market. In addition, Nasdaq may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges that are members or affiliate members of ISG, including the Chicago Board of Trade, and Nasdaq has Information Sharing Agreements in place with the New York Mercantile Exchange, the Kansas City Board of Trade, ICE Futures, and the London Metal Exchange. If at any time the Index Sponsor includes in the Index a contract traded on any other market, which results in more than 10% of the cumulative weight of the Index not being subject to comprehensive surveillance-sharing arrangements (*i.e.*, the relevant exchange is not a member or affiliate member of ISG or Nasdaq does not have a pre-existing comprehensive surveillance-sharing agreement with it), then, prior to the inclusion of such contract in the Index, Nasdaq would (1) enter into adequate information sharing arrangements with such other market, and (2) contact the Commission to discuss measures that may be appropriate under the circumstances. Nasdaq has issued and would continue to issue an Information Circular to inform its members of the special characteristics and risks associated with trading the Shares, among other things.

2. Statutory Basis

The proposal is consistent with Section 6(b) of the Act,[9] in general, and Section 6(b)(5) of the Act,[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to 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. In addition, the proposal is consistent with Rule 12f–5 under the Act[11] because Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2007–054 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–NASDAQ–2007–054. 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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying

[8] NASD surveils trading pursuant to a regulatory services agreement. Nasdaq is responsible for NASD's performance under this regulatory services agreement.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 240.12f–5.

information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2007–054 and should be submitted on or before July 2, 2007.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[12] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[13] which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that this proposal should benefit investors by increasing competition among markets that trade the Shares.

In addition, the Commission finds that the proposal is consistent with Section 12(f) of the Act,[14] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[15] The Commission notes that the Shares are currently trading on Nasdaq pursuant to UTP on a pilot basis and that it previously approved the listing and trading of the Shares on NYSE.[16] The Commission also finds that the proposal is consistent with Rule 12f–5 under the Act,[17] which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. The Exchange has represented that it meets this requirement because it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[18] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations for and last-sale information regarding the Shares are publicly available on the Web sites of the Trust, Nasdaq, and NYSE. The Web site for the Trust also disseminates information about the prior business day's NAV and the reporting closing price, the midpoint of the Bid-Ask Price in relation to the NAV as of the time the NAV is calculated, discount and premium information of the Bid-Ask Price against the NAV, the prospectus, the various holdings of the Trust, the Basket Amount, and other applicable information. During regular trading hours, major market data vendors disseminate at least every 15 seconds the values of the GSCI, GSCI–ER, and Index.[19] In addition, NYSE disseminates through the facilities of CTA an updated ITV on a per-Share basis at least every 15 seconds during the trading day. The Trustee calculates and simultaneously disseminates once each business day to all market participants the NAV per Share. Also, futures quotes and last-sale information for the commodities underlying the Index and the CERFs are widely disseminated through a variety of market data vendors.[20]

The Commission notes that, if the Shares should be delisted by the original listing exchange, the Exchange would no longer have authority to trade the Shares pursuant to this order.

In support of this proposal, the Exchange has represented that its surveillance procedures are adequate to address any concerns associated with the trading of the Shares on Nasdaq on a UTP basis. This approval order is conditioned on the Exchange's adherence to this representation. In the Pilot Order,[21] the Commission noted that exchanges that trade commodity-related securities generally have in place surveillance agreements with markets that trade the underlying securities. In its proposal to establish the pilot trading period, the Exchange represented that it was in the process of completing these surveillance arrangements and expected to do so "in the near future." The Exchange recently provided the Commission with evidence that it has completed these surveillance arrangements.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted above, the Commission previously found that the listing and trading of the Shares on NYSE is consistent with the Act and approved the trading of the Shares on Nasdaq pursuant to UTP on a pilot basis. The Commission presently is not aware of any regulatory issue that should cause it to revisit that finding or would preclude the continued trading of the Shares on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposal should benefit investors by continuing, without undue delay, competition in the market for such Shares.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (SR–NASDAQ–2007–054) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11182 Filed 6–8–07; 8:45 am]

BILLING CODE 8010–01–P

[12] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78*l*(f).

[15] Section 12(a) of the Act, 15 U.S.C. 78*l*(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to Section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange "extends UTP." When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

[16] *See supra* notes 4 and 5.

[17] 17 CFR 240.12f–5.

[18] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[19] *See* NYSE Proposal, 71 FR at 21084.

[20] *See id.*

[21] *See infra* note 4.

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10866 and #10867]

Kansas Disaster Number KS–00018

AGENCY: Small Business Administration.

ACTION: Amendment 5.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Kansas (FEMA–1699–DR), dated 05/06/2007.

Incident: Severe storms, tornadoes, and flooding.

Incident Period: 05/04/2007 through 05/18/2007.

Effective Date: 06/01/2007.

Physical Loan Application Deadline Date: 07/05/2007.

EIDL Loan Application Deadline Date: 02/06/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Kansas, dated 05/06/2007is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: Riley.

Contiguous Counties:

Kansas: Marshall.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E7–11172 Filed 6–8–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10881 and #10882]

South Dakota Disaster Number SD–00012

AGENCY: Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of South Dakota (FEMA–1702–DR), dated 05/22/2007.

Incident: Severe storms, tornadoes and flooding.

Incident Period: 05/04/2007 and continuing.

Effective Date: 05/31/2007.

Physical Loan Application Deadline Date: 07/23/2007.

Eidl Loan Application Deadline Date: 02/22/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsportroad, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of South Dakota, dated 05/22/2007 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: Marshall.

Contiguous Counties:

South Dakota: Roberts.

North Dakota:Richland.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E7–11170 Filed 6–8–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending May 25, 2007

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1383 and 2384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2007–28314.

Date Filed: May 23, 2007.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 540 Adoption, Expected Resolution 002kk, (Memo 0666) Intended effective date: 1 July 2007.

Docket Number: OST–2007–28347.

Date Filed: May 25, 2007.

Parties: Members of the International Air Transport Association.

Subject: Mail vote 539—Resolution 010t, TC12 North Atlantic-Middle East, except between U.S.A. and Jordan, Special Passenger Amending Resolution, From Israel (IL) to North Atlantic, (Memo 0273) Intended effective date: 1 June 2007.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 07–2891 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–9X–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending May 25, 2007

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2007–28325.

Date Filed: May 23, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 13, 2007.

Description: Application of Joint Stock Company Vladivostok Air (Vladivostok Air) requesting an exemption and a foreign air carrier permit authorizing it to engage in scheduled foreign air transportation of persons, property and mail between a point or points in the Russian Federation, on the one hand, and the coterminal points Anchorage, Alaska and Seattle, Washington, on the other hand, via intermediate points. Vladivostok Air further requests that its exemption and permit authorize it to engage in charter foreign air transportation of persons, property and mail between any point or points in the Russian Federation and any point or points in the United States, and to conduct other charter trips in foreign air transportation.

Docket Number: OST–2007–28326.

Date Filed: May 23, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 13, 2007.

Description: Application of Air Alsie A/S (Air Alsie) requesting a foreign air carrier permit to engage in (i) Scheduled and charter foreign air transportation of persons and property between any point or points in Denmark and any point or points in the United States coextensive with the rights provided under the U.S.-Denmark Air Transport Agreement, (ii) effective March 30, 2008, foreign air transportation of persons and property

between any point or points in a Member State of the European Union and any point or points in the United States coextensive with the rights provided under the U.S.-EC Air Transport Agreement, (iii) effective March 30, 2008, foreign air transportation of persons and property between any point or points in any member of the European Common Aviation Area and any point or points in the United States coextensive with the rights provided under the U.S.-EC Air Transport Agreement, and (iv) other charter transportation. Air Alsie further requests a corresponding exemption enabling it to provide the service described above pending issuance of a foreign air carrier permit.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E7–11250 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

DATES: The meeting will be held June 26, 2007 starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 850, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Program Management Committee meeting. The agenda will include:

- June 26:
- Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of March 22 Meeting, Paper No. 093–07/PMC–534).
- Publication Consideration/Approval:
- Final Draft, New Document, Future Air Navigation System 1/A (FANS 1/A)—Aeronautical Telecommunications Network (ATN) Interoperability Standard, RTCA Paper No. 123–07/PMC–537, prepared by SC–189.
- Final Draft, New Document, Safety and Performance Standard for Air Traffic Data Link Services in Oceanic and Remote Airspace (Oceanic SPR Standard), RTCA Paper No. 124–07/PMC–538, prepared by SC–189.
- Final Draft, Revised DO–280A, Interoperability Requirements for ATN Baseline 1 (INTEROP ATN B1), RTCA Paper No. 125–07–PMC–539, prepared by SC–189.
- Final Draft, Change 2, to DO–290, Safety and Performance Requirements Standard for Air Traffic Data Link Services in Continental Airspace (Continental SPR Standard), RTCA Paper No. 126–07/PMC–540, prepared by SC 189.
- Final Draft, Revised DO–253A, Minimum Operational Performance Standards for GPS Local Area Augmentation System Airborne Equipment, RTCA Paper No. 127–07/PMC–541, prepared by SC–159.
- Discussion:
- Special Committee Chairman's Reports.
- Action Item Review:
- SC–147—Traffic Alert & Collision Avoidance System—Discussion.
- Revised Terms of Reference and SC–147 Status Review.
- PMC Ad Hoc Subgroup—Status Review.
- SC–203—Unmanned Aircraft Systems (UAS)—Discussion—Status Review.
- SC–205—Software Considerations—Discussion—Status Review.
- Aeronautical Systems Security—Discussion—Possible New Committee.
- EUROCAE WG–68—Altimerty—Discussion.
- Closing Session (Other Business, Document Production, Date and Place of Next Meeting, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 31, 2007.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 07–2864 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highways in Alaska

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to various proposed highway projects in the State of Alaska. Those actions grant approvals for the projects.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 USC 139(l)(1). A claim seeking judicial review of the Federal agency actions on any of the listed highway projects will be barred unless the claim is filed on or before December 10, 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: Mr. Dale J. Lewis, Central Region Liaison Engineer, FHWA Alaska Division, P.O. Box 21648, Juneau, Alaska 99802–1648; office hours 7 a.m.–4:30 p.m. (AST), phone (907) 586–7429; e-mail *Dale.J.Lewis@dot.gov*. You may also contact Jerry O. Ruehle, DOT&PF Central Region Environmental Coordinator, Alaska Department of Transportation and Public Facilities, 4111 Aviation Drive, P.O. Box 196900, Anchorage, Alaska 99519–6900; office hours 7:30 a.m.–5 p.m. (AST), phone (907) 269–0534, e-mail *Jerry_Ruehle@dot.state.ak.us.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency actions by issuing approvals for the following highway projects in the State of Alaska that are listed below. The actions by the Federal agency on the projects, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) issued in connection with the projects. The EA, Finding of No Significant Impact (FONSI), and other documents from the FHWA files for the listed projects are available by contacting the FHWA or the State of Alaska Department of Transportation & Public Facilities at the addresses provided above. The EA and FONSI documents can be viewed and downloaded from the project Web site at

http://projects.ch2m.com/Sewardhwy and *http://projects.ch2m.com/SewardMeridian* or viewed at 4111 Aviation Avenue, Anchorage, Alaska 99519.

This notice applies to all FHWA decisions and approvals on the listed projects as of the issuance date of this notice and all laws and Executive Orders under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act, [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

4. *Wildlife:* Endangered Species Act of 1973 [16 U.S.C. 1531–1544 and Section 1536]; Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712]; Magnuson-Stevenson Fishery Conservation and Management Act 1976 as amended [16 U.S.C. 1801 et seq.].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) et seq.]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1251–1377]; Coastal Zone Management Act [16 U.S.C. 1451–1465]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287].

8. *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. 13186 Migratory Birds; E.O. 11514 Protection and Enhancement of Environmental Quality.

The projects subject to this notice are:

1. *Project Location:* Anchorage, Alaska, Municipality of Anchorage, New Seward Highway (NSH). Project Reference Number: FRAF–CA–MGS–NH–0A3–1(27). Project type: Road improvements to NSH between Rabbit Creek Road and 36th Avenue, a distance of approximately eight miles. The NSH will remain a controlled access corridor and noise barriers, fencing, and pathways throughout the corridor will be upgraded or constructed as warranted and continuous illumination will be added augment the existing high-mast interchange lighting. Between O'Malley Road and Dimond Boulevard the existing NSH will be widened from four to six lanes to address current and future travel demand and mobility needs. NEPA document; Environmental Assessment and Finding of No Significant Impact issued November 4, 2006 and available electronically at *http://projects.ch2m.com/Sewardhwy*.

2. *Project Location:* Wasilla, Alaska, Matanuska-Susitna Borough, Seward Meridian Parkway (SMP). Project Reference Number: IM–0001(302). Project type: Road improvements to SMP from the Parks Highway to Bogard Road and extension of the road one mile from Bogard Road to Seldon Road; a distance of approximately three miles. The selected alternative will expand the existing SMP from a two-lane facility to a four-lane facility with a center turn lane and a multi-use separated pathway. The project will increase the capacity of SMP and provide a key system line from Seldon Road to the Parks Highway. NEPA document: Environmental Assessment and Finding of No Significant Impact issued April 2, 2007 and available electronically at *http://projects.ch2m.com/SewardMeridian*.

(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 USC § 139(l)(1)

Issued on: May 30, 2007.

David C. Miller,

Division Administrator, Juneau, Alaska.

[FR Doc. 07–2885 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–RY–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

TIME AND DATE: June 28, 2007, 11 a.m. to 2 p.m., Eastern Daylight Time.

PLACE: This meeting will take place telephonically. Any interested person may call Mr. Avelino Gutierrez at (505) 827–4565 to receive the toll free number and pass code needed to participate in this meeting by telephone.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Dated: June 6, 2007.

William A. Quade,

Acting Associate Administrator for Enforcement and Program Delivery.

[FR Doc. 07–2911 Filed 6–7–07; 3:28 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking approval of the following information collection activities. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than August 10, 2007.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 25, Washington, DC 20590, or Ms. Gina Christodoulou, Office of Support Systems, RAD–43, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, "Comments on OMB control number 2130–New." Alternatively, comments may be transmitted via facsimile to (202) 493–6230 or (202) 493–6170, or via e-mail to Mr. Brogan at *robert.brogan@dot.gov*, or

to Ms. Christodoulou at *gina.christodoulou@dot.gov*. Please refer to the assigned OMB control number or collection title in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 25, Washington, DC 20590 (*telephone:* (202) 493–6292) or Ms. Gina Christodoulou, Office of Support Systems, RAD–43, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (*telephone:* (202) 493–6139). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval by OMB. 44 U.S.C. § 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(i)–(iv); 5 CFR 1320.8(d)(1)(i)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a "user friendly" format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below is a brief summary of proposed new information collection activities that FRA will submit for clearance by OMB as required under the PRA:

Title: Collect Close Call Reports.

OMB Control Number: 2130–New.

Abstract: In the U.S. railroad industry, injury rates have been declining over the last 25 years. Indeed, the industry incident rate fell from a high of 12.1 incidents per 100 workers per year in 1978 to 3.66 in 1996. As the number of incidents has decreased, the mix of causes has also changed toward a higher proportion of incidents that can be attributed to human and organizational factors. This combination of trends—decrease in overall rates but increasing proportion of human factors-related incidents—has left safety managers with a need to shift tactics in reducing injuries to even lower rates than they are now.

In recognition of the need for new approaches to improving safety, FRA has instituted the Confidential Close Call Reporting System (C^3RS). The operating assumption behind C^3RS is that by assuring confidentiality, employees will report events which, if dealt with, will decrease the likelihood of accidents. C^3RS, therefore, has both a confidential reporting component, and a problem analysis/solution component. C^3RS is expected to affect safety in two ways. First, it will lead to problem solving concerning specific safety conditions. Second, it will engender an organizational culture and climate that supports greater awareness of safety and a greater cooperative willingness to improve safety.

If C^3RS works as intended, it could have an important impact on improving safety and safety culture in the railroad industry. While C^3RS has been developed and implemented with the participation of FRA, railroad labor, and railroad management, there are legitimate questions about whether it is being implemented in the most beneficial way, and whether it will have its intended effect. Further, even if C^3RS is successful, it will be necessary to know if it is successful enough to implement on a wide scale. To address these important questions, FRA is implementing a formative evaluation to guide program development, a summative evaluation to assess impact, and a sustainability evaluation to determine how C^3RS can continue after the test period is over. The evaluation is needed to provide FRA with guidance as to how it can improve the program, and how it might be scaled up throughout the railroad industry.

Program evaluation is an inherently data driven activity. Its basic tenet is that as change is implemented, data can be collected to track the course and consequences of the change. Because of the setting in which C^3RS is being implemented, that data must come from the railroad employees (labor and management) who may be affected. Critical data include beliefs about safety and issues related to safety, and opinions/observations about the operation of C^3RS.

The proposed study is a five-year demonstration project to improve rail safety, and is designed to identify safety issues and propose corrective action based on voluntary reports of close calls submitted to the Bureau of Transportation Statistics. Because of the innovative nature of this program, FRA is implementing an evaluation to determine whether the program is succeeding, how it can be improved and, if successful, what is needed to spread the program throughout the railroad industry. Interviews to evaluate the close call reporting system will be conducted with two groups: (1) Key stakeholders to the process (e.g., FRA officials, industry labor, and carrier management within participating railroads); and (2) Employees in participating railroads who are eligible to submit close call reports to the Confidential Close Call Reporting System. Different questions will be addressed to each of these two groups. Interviews will be semi-structured, with follow-up questions asked as appropriate depending on the respondent's initial answer.

Form Number(s): FRA F 6180.126A; FRA F 6180.126B.

Affected Public: Railroad Employees and Key Non-railroad Stakeholders.

Respondent Universe: 300 Select Railroad Employees/Non-railroad Stakeholders.

Frequency of Submission: On occasion.

Estimated Annual Burden: 267 hours.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on June 5, 2007.

D.J. Stadtler,

Director, Office of Budget, Federal Railroad Administration.

[FR Doc. E7–11154 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

International Standards on the Transport of Dangerous Goods; Public Meeting.

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that PHMSA will conduct a public meeting in preparation for the 31st session of the United Nation's Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE) to be held July 2–6, 2007 in Geneva, Switzerland. In addition, input will be solicited on a five year agenda prioritizing PHMSA's international work.

DATES: Wednesday June 20, 2007; 9:30 a.m.–12:30 p.m.

ADDRESSES: The meeting will be held at the new DOT Headquarters, West Building, Conference Rooms 8, 9 and 10, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Duane Pfund, Director, Office of International Standards, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–0656.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting will be to prepare for the 31st session of the UNSCOE and to discuss draft U.S. postions on UNSCOE proposals. The 31st session of the UNSCOE is the first meeting in the current biennium cycle. The UNSCOE will consider proposals for the 16th Revised Edition of the United Nations Recommendations on the Transport of Dangerous Goods Model Regulations which will come into force in the international regulations from January 1, 2011. Topics to be covered during the public meetings include:

Transport of limited quantities and consumer commodities, classification and transport of explosives, transport of fireworks, subsidiary labeling for toxic by inhalation liquids, testing of aerosols, harmonization with the IAEA Regulations for the safe transport of radioactive materials, guiding principles for the development of the Model Regulations, and various miscellaneous proposals related to listing, classification, and hazard communication. In addition to soliciting comments on proposals to be considered at UNSCOE's 31st session, we are also soliciting comments on possible work items for future UNSCOE meetings.

To ensure transparency, stakeholder participation, and accountability, we are in addition developing a five-year agenda to establish priorties for our international work. This planning mechanism will allow us to forecast new technology developments and ensure appropriate safety regulations are implemented in a timely manner.

The public is invited to attend without prior notification. Due to the heightened security measures participants are encouraged to arrive early to allow time for security checks necessary to obtain access to the building. In lieu of conducting a public meeting after the 31st session of the UNSCOE to present the results of the session, PHMSA will place a copy of the Sub-Committee's report and an updated copy of the pre-meeting summary document on PHMSA's Hazardous Materials Safety Homepage at *http://hazmat.dot.gov/regs/intl/instandards.htm.*

Documents

Copies of documents for the UNSCOE meeting and the meeting agenda may be obtained by downloading them from the United Natins Transport Division's web site at: *http://www.unece.org/trans/main/dgdb/dgsubc/c32007.html.* This site may also be accessed through PHMSA's Hazardous Materials Safety homepage at *http://hazmat.dot.gov/regs/intl/intstandards.htm.* PHMSA's site provides additional information regarding the UNSCOE and related matters such as a summary of decisions taken at previous sessions of the UNSCOE.

Robert A. Richard,

Deputy Associate Administrator for Hazardous Materials Safety.

[FR Doc. 07–2868 Filed 6–8–07; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 672]

Rail Transportation of Resources Critical to the Nation's Energy Supply

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of public hearing.

SUMMARY: The Surface Transportation Board will hold a public hearing beginning at 9 a.m. on Wednesday, July 18, 2007, in the Ground Floor Conference Room of the Richard Bolling Federal Building, 601 East 12th Street, Kansas City, MO 64106. The purpose of the public hearing will be to examine issues related to the efficiency and reliability of rail transportation of resources critical to the nation's energy supply, including coal, ethanol, and biofuels.

DATES: The public hearing will take place on July 18, 2007. Any person wishing to speak at the hearing should file with the Board a written notice of intent to participate, and should identify the party, the proposed speaker, the time requested, and the topic(s) to be covered, as soon as possible but no later than June 19, 2007. Each speaker should also file with the Board his/her written testimony by July 5, 2007. Written submissions by interested persons who do not wish to appear at the hearing will also be due by July 5, 2007. If a party intends to use audio-visual materials at the hearing, those materials should be submitted to the Board in electronic form by July 13, 2007.

ADDRESSES: All notices of intent to participate and testimony may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's Web site at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies of the filing to: Surface Transportation Board, Attn: STB Ex Parte No. 672, 395 E Street, SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION, CONTACT: Timothy Strafford, (202) 245–0356. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339.]

SUPPLEMENTARY INFORMATION: The Board, created by Congress in 1996 to take over many of the functions

previously performed by the Interstate Commerce Commission, exercises broad authority over transportation by rail carriers, including regulation of railroad rates and service (49 U.S.C. 10701–10747, 11101–11124), as well as the construction, acquisition, operation, and abandonment of rail lines (49 U.S.C. 10901–10907) and railroad line sales, consolidations, mergers, and common control arrangements (49 U.S.C. 10902, 11323–11327).

The Board views the reliability of the nation's energy supply as crucial to this nation's economic and national security, and the transportation by rail of coal and other energy resources as a vital link in the energy supply chain. The Board will hold a public hearing, as a forum for interested persons to provide views and information about issues relating to the efficiency and reliability of rail transportation of resources critical to the nation's energy supply.

Date of Hearing. The hearing will begin at 9 a.m. on Wednesday, July 18, 2007 in the Ground Floor Conference Room of the Richard Bolling Federal Building, 601 East 12th Street, Kansas City, MO 64106, and will continue, with breaks as necessary, until every person scheduled to speak has been heard. The Richard Bolling Federal Building is open Monday through Friday from 6 a.m. to 6 p.m. All employees and visitors must present a valid form of photo identification and pass screening before being granted access into the building. Visitors will have access to public areas only.

Notice of Intent To Participate. Any person wishing to speak at the hearing should file with the Board a written notice of intent to participate, and should identify the party, the proposed speaker, the time requested, and topic(s) to be covered, as soon as possible, but no later than June 19, 2007.

Testimony. Each speaker should file with the Board his/her written testimony by July 5, 2007. Also, any interested person who wishes to submit a written statement without appearing at the July 18 hearing should file that statement by July 5, 2007. If a party intends to use audio-visual materials at the hearing, those materials should be submitted to the Board in electronic form by July 13, 2007.

Board Releases and Live Audio Available Via the Internet. Decisions and notices of the Board, including this notice, are available on the Board's Web site at *http://www.stb.dot.gov.* Information concerning the availability of live audio streaming of this hearing will be included in the decision scheduling speaker times.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Dated: June 6, 2007.

Vernon A. Williams,

Secretary.

[FR Doc. E7–11236 Filed 6–8–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Intent To Grant an Exclusive License

AGENCY: Department of Veterans Affairs, Office of Research and Development.

ACTION: Notice of Intent.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs, Office of Research and Development, intends to grant to Bioceuticals, Inc., 26439 Birchfield Avenue, Rancho Palos Verdes, CA 90275 USA an exclusive license to practice the following patent application: U.S. Patent Application Serial No. 10/750,005 filed December 30, 2003 entitled "Methods for Reducing Oxidative Stress in a Cell with a Sulfhydryl Protected Glutathione Prodrug."

DATES: Comments must be received within fifteen (15) days from the date of this published Notice.

ADDRESSES: Send comments to: Amy E. Centanni, Director of Technology Transfer, Department of Veterans Affairs; Office of Research and Development, 810 Vermont Avenue, NW., Washington, DC 20420, Attn: 12TT, Telephone: (202) 254–0199; Facsimile: (202) 254–0460; e-mail: *Amy.centanni@va.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the published patent applications may be obtained from the U.S. Patent and Trademark Office at *http://www.uspto.gov.*

SUPPLEMENTARY INFORMATION: It is in the public interest to so license these inventions as Bioceuticals, Inc. submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published Notice, the Department of Veterans Affairs Office of Research and Development receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Dated: June 5, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E7–11223 Filed 6–8–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Intent To Grant an Exclusive License

AGENCY: Department of Veterans Affairs, Office of Research and Development.

ACTION: Notice of Intent.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs, Office of Research and Development, intends to grant to Perlegen Sciences, Inc., 2021 Stierlin Court, Mountain View, CA 94043 USA an exclusive license to practice the following patent application: U.S. Patent Application Serial No. 11/344,975 filed January 31, 2006 entitled "Genetic Basis of Alzheimer's Disease and Diagnosis and Treatment Thereof."

DATES: Comments must be received within fifteen (15) days from the date of this published Notice.

ADDRESSES: Send comments to: Amy E. Centanni, Director of Technology Transfer, Department of Veterans Affairs; Office of Research and Development, 810 Vermont Avenue, NW., Washington, DC 20420, Attn: 12TT, Telephone: (202) 254–0199; Facsimile: (202) 254–0460; e-mail: *Amy.centanni@va.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the published patent applications may be obtained from the U.S. Patent and Trademark Office at *http://www.uspto.gov.*

SUPPLEMENTARY INFORMATION: It is in the public interest to so license these inventions as Perlegen Sciences, Inc. submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published Notice, the Department of Veterans Affairs Office of Research and Development receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Dated: June 5, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E7–11224 Filed 6–8–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Pension Cost-of-Living Adjustments and Headstone or Marker Allowance Rate

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by law, the Department of Veterans Affairs (VA) is hereby giving notice of cost-of-living adjustments (COLAs) in certain benefit rates and income limitations. These COLAs affect the pension and parents' dependency and indemnity compensation (DIC) programs, as well as the benefits VA pays to or for certain veterans' children with spina bifida or birth defects. These adjustments are based on the rise in the Consumer Price Index during the one-year period ending September 30, 2006. VA is also giving notice of the maximum amount of reimbursement that may be paid for headstones or markers purchased in lieu of Government-furnished headstones or markers in fiscal year 2007, which began on October 1, 2006.

DATES: These COLAs are effective December 1, 2006. The headstone or marker allowance rate is effective October 1, 2006.

FOR FURTHER INFORMATION CONTACT: Lyric Collier, Program Analyst, Compensation and Pension Service (212A), Veterans Benefit Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7212.

SUPPLEMENTARY INFORMATION: Under a prior version of 38 U.S.C. 2306(d), VA may provide reimbursement for the cost of non-Government headstones or markers at a rate equal to the actual cost or the average actual cost of Government-furnished headstones or markers during the fiscal year preceding the fiscal year in which the non-Government headstone or marker was purchased, whichever is less. This provision only applies to deaths that occurred before November 1, 1990.

Section 8041 of Public Law 101–508 amended 38 U.S.C. 2306(d) to eliminate the payment of a monetary allowance in lieu of VA-provided headstone or marker for deaths occurring on or after November 1, 1990. However, in a precedent opinion (O.G.C. Prec. 17–90), VA's General Counsel held that there is no limitation period applicable to claims for benefits under the prior provisions of 38 U.S.C. 2306(d). Thus, reimbursement may still be provided under the prior version of section 2306(d) for deaths occurring before November 1, 1990.

The average actual cost of Government-furnished headstones or markers during any fiscal year is determined by dividing the sum of VA costs during that fiscal year for procurement, transportation, miscellaneous administration, inspection and support staff by the total number of headstones and markers procured by VA during that fiscal year and rounding to the nearest whole dollar amount.

The average actual cost of Government-furnished headstones or markers for fiscal year 2006 according to the above computation method was $132. Therefore, effective October 1, 2006, the maximum rate of reimbursement for non-Government headstones or markers purchased during fiscal year 2007 is $132.

Cost of Living Adjustments

Under the provisions of 38 U.S.C. 5312 and section 306 of Public Law 95–588, VA is required to increase the benefit rates and income limitations in the pension and parents' DIC programs by the same percentage, and effective the same date, as increases in the benefit amounts payable under title II of the Social Security Act. The increased rates and income limitations must also be published in the **Federal Register**.

The Social Security Administration announced a 3.3 percent cost-of-living increase in Social Security benefits effective December 1, 2006. Therefore, applying the same percentage and rounding up in accordance with 38 CFR 3.29, the following increased rates and income limitations for the VA pension and parents' DIC programs were effective December 1, 2006:

TABLE 1.—IMPROVED PENSION

[Maximum Annual Rates]

(1) Veterans permanently and totally disabled (38 U.S.C. 1521):
- Veteran with no dependents, $10,929.
- Veteran with one dependent, $14,313.
- For each additional dependent, $1,866.

(2) Veterans in need of aid and attendance (38 U.S.C. 1521):
- Veteran with no dependents, $18,234.
- Veteran with one dependent, $21,615.
- For each additional dependent, $1,866.

(3) Veterans who are housebound (38 U.S.C. 1521):
- Veteran with no dependents, $13,356.
- Veteran with one dependent, $16,740.
- For each additional dependent, $1,866.

(4) Two veterans married to one another, combined rates (38 U.S.C. 1521):
- Neither veteran in need of aid and attendance or housebound, $14,313.
- Either veteran in need of aid and attendance, $21,615.
- Both veterans in need of aid and attendance, $28,161.
- Either veteran housebound, $16,740.
- Both veterans housebound, $19,168.

One veteran housebound and one veteran in need of aid and attendance, $24,038.
- For each dependent child, $1,866.

(5) Surviving spouse alone and with a child or children of the deceased veteran in custody of the surviving spouse (38 U.S.C. 1541):
- Surviving spouse alone, $7,329.
- Surviving spouse and one child in his or her custody, $9,594.
- For each additional child in his or her custody, $1,866.

(6) Surviving spouses in need of aid and attendance (38 U.S.C. 1541):
- Surviving spouse alone, $11,715.
- Surviving spouse with one child in custody, $13,976.
- Surviving Spouse of Spanish-American War veteran alone, $12,471.

Surviving Spouse of Spanish-American War veteran with one child in custody, $14,732.
- For each additional child in his or her custody, $1,866.

(7) Surviving spouses who are housebound (38 U.S.C. 1541):
- Surviving spouse alone, $8,957.
- Surviving spouse and one child in his or her custody, $11,219.
- For each additional child in his or her custody, $1,866.

(8) Surviving child alone (38 U.S.C. 1542), $1,866.

Reduction for income. The rate payable is the applicable maximum rate minus the countable annual income of the eligible person. (38 U.S.C. 1521, 1541 and 1542).

Mexican border period and World War I veterans. The applicable maximum annual rate payable to a Mexican border period or World War I veteran under this table shall be increased by $2,480. (38 U.S.C. 1521(g))

Parents' Dic. DIC shall be paid monthly to parents of a deceased veteran in the following amounts (38 U.S.C. 1315):

One parent. If there is only one parent, the monthly rate of DIC paid to such parent shall be $524 reduced on the basis of the parent's annual income according to the following formula:

TABLE 2.—FOR EACH $1 OF ANNUAL INCOME

Which is more than	But not more than	The $524 monthly rate shall be reduced by
$0	$800	$0.00
800	12,432	0.08

No DIC is payable under this table if annual income exceeds $12,432.

One parent who has remarried. If there is only one parent and the parent has remarried and is living with the parent's spouse, DIC shall be paid under Table 2 or under Table 4, whichever shall result in the greater benefit being paid to the veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining the monthly rate of DIC.

Two parents not living together. The rates in Table 3 apply to (1) two parents who are not living together, or (2) an unmarried parent when both parents are living and the other parent has remarried. The monthly rate of DIC paid to each such parent shall be $380 reduced on the basis of each parent's annual income, according to the following formula:

TABLE 3.—FOR EACH $1 OF ANNUAL INCOME

Which is more than	But not more than	The $380 monthly rate shall be reduced by
$0	$800	$0.00
800	900	0.06
900	1,100	0.07
1,100	12,432	0.08

No DIC is payable under this table if annual income exceeds $12,432.

Two parents living together or remarried parents living with spouses. The rates in Table 4 apply to each parent living with another parent; and each remarried parent, when both parents are alive. The monthly rate of DIC paid to such parents will be $356 reduced on the basis of the combined annual income of the two parents living together or the remarried parent or parents and spouse or spouses, as computed under the following formula:

TABLE 4.—FOR EACH $1 OF ANNUAL INCOME

Which is more than	But not more than	The $356 monthly rate shall be reduced by
$0	$1,000	$0.00
1,000	1,500	0.03
1,500	1,900	0.04
1,900	2,400	0.05
2,400	2,900	0.06
2,900	3,200	0.07
3,200	16,710	0.08

No DIC is payable under this table if combined annual income exceeds $16,710.

The rates in this table are also applicable in the case of one surviving parent who has remarried, computed on the basis of the combined income of the parent and spouse, if this would be a greater benefit than that specified in Table 2 for one parent.

Aid and attendance. The monthly rate of DIC payable to a parent under Tables 2 through 4 shall be increased by $284 if such parent is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

Minimum rate. The monthly rate of DIC payable to any parent under Tables 2 through 4 shall not be less than $5.

TABLE 5.—SECTION 306 PENSION INCOME LIMITATIONS

(1) Veteran or surviving spouse with no dependents, $12,432 (Pub. L. 95–588, section 306(a)).
(2) Veteran with no dependents in need of aid and attendance, $12,932 (38 U.S.C. 1521(d) as in effect on December 31, 1978).
(3) Veteran or surviving spouse with one or more dependents, $16,710 (Pub. L. 95–588, section 306(a)).
(4) Veteran with one or more dependents in need of aid and attendance, $17,210 (38 U.S.C. 1521(d) as in effect on December 31, 1978).
(5) Child (no entitled veteran or surviving spouse), $10,163 (Pub. L. 95–588, section 306(a)).
(6) Spouse income exclusion (38 CFR 3.262), $3,967 (Pub. L. 95–588, section 306(a)(2)(B)).

TABLE 6.—OLD-LAW PENSION INCOME LIMITATIONS

(1) Veteran or surviving spouse without dependents or an entitled child, $10,883 (Pub. L. 95–588, section 306(b)).
(2) Veteran or surviving spouse with one or more dependents, $15,690 (Pub. L. 95–588, section 306(b)).

Spina Bifida Benefits

Section 421 of Public Law 104–204 added a new chapter 18 to title 38, United States Code, authorizing VA to provide certain benefits, including a monthly monetary allowance, to children born with spina bifida who are natural children of veterans who served in the Republic of Vietnam during the Vietnam era. Pursuant to 38 U.S.C. 1805(b)(3), spina bifida rates are subject to adjustment under the provisions of 38 U.S.C. 5312, which provides for the adjustment of certain VA benefit rates whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 *et seq.*). Effective December 1, 2006, spina bifida monthly rates are as follows:

Level I—$263

Level II—$909

Level III—$1,550

Birth Defects Benefits

Section 401 of Public Law 106–419 authorizes the payment of monetary benefits to, or on behalf of, children of female Vietnam veterans born with certain birth defects. Pursuant to 38 U.S.C. 1815(d), birth defects rates are subject to adjustment under the provisions of 38 U.S.C. 5312, which provides for the adjustment of certain VA benefit rates whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 *et seq.*). Effective December 1, 2006, birth defects monthly rates are as follows:

Level I—$120

Level II—$263

Level III—$909

Level IV—$1,550

Dated: June 5, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

[FR Doc. E7–11225 Filed 6–8–07; 8:45 am]

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TRANSPORTATION DEPARTMENT

Pipeline and Hazardous Materials Safety Administration

Pipeline safety:

Unusually sensitive areas; protection from rural low-stress hazardous liquid pipelines; comments due by 6-18-07; published 5-18-07 [FR 07-02461]

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Corporate reorganizations; interest continuity measurement; guidance; cross-reference; comments due by 6-18-07; published 3-20-07 [FR E7-05045]

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. 414/P.L. 110–29

To designate the facility of the United States Postal Service located at 60 Calle McKinley, West in Mayaguez, Puerto Rico, as the "Miguel Angel García Méndez Post Office Building". (June 1, 2007; 121 Stat. 219)

H.R. 437/P.L. 110–30

To designate the facility of the United States Postal Service located at 500 West Eisenhower Street in Rio Grande City, Texas, as the "Lino Perez, Jr. Post Office". (June 1, 2007; 121 Stat. 220)

H.R. 625/P.L. 110–31

To designate the facility of the United States Postal Service located at 4230 Maine Avenue in Baldwin Park, California, as the "Atanacio Haro-Marin Post Office". (June 1, 2007; 121 Stat. 221)

H.R. 1402/P.L. 110–32

To designate the facility of the United States Postal Service located at 320 South Lecanto Highway in Lecanto, Florida, as the "Sergeant Dennis J. Flanagan Lecanto Post Office Building". (June 1, 2007; 121 Stat. 222)

H.R. 2080/P.L. 110–33

To amend the District of Columbia Home Rule Act to conform the District charter to revisions made by the Council of the District of Columbia relating to public education. (June 1, 2007; 121 Stat. 223)

Last List May 31, 2007

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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.

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Title	Stock Number	Price	Revision Date
1	(869–062–00001–4)	5.00	[4] Jan. 1, 2007
2	(869–062–00002–2)	5.00	Jan. 1, 2007
3 (2006 Compilation and Parts 100 and 102)	(869–062–00003–1)	35.00	[1] Jan. 1, 2007
4	(869–062–00004–9)	10.00	[5] Jan. 1, 2007
5 Parts:			
1–699	(869–062–00005–7)	60.00	Jan. 1, 2007
700–1199	(869–062–00006–5)	50.00	Jan. 1, 2007
1200–End	(869–062–00007–3)	61.00	Jan. 1, 2007
6	(869–062–00008–1)	10.50	Jan. 1, 2007
7 Parts:			
1–26	(869–062–00009–0)	44.00	Jan. 1, 2007
27–52	(869–062–00010–3)	49.00	Jan. 1, 2007
53–209	(869–062–00011–1)	37.00	Jan. 1, 2007
210–299	(869–062–00012–0)	62.00	Jan. 1, 2007
300–399	(869–062–00013–8)	46.00	Jan. 1, 2007
400–699	(869–062–00014–6)	42.00	Jan. 1, 2007
700–899	(869–062–00015–4)	43.00	Jan. 1, 2007
900–999	(869–062–00016–2)	60.00	Jan. 1, 2007
1000–1199	(869–062–00017–1)	22.00	Jan. 1, 2007
1200–1599	(869–062–00018–9)	61.00	Jan. 1, 2007
1600–1899	(869–062–00019–7)	64.00	Jan. 1, 2007
1900–1939	(869–062–00020–1)	31.00	Jan. 1, 2007
1940–1949	(869–062–00021–9)	50.00	[5] Jan. 1, 2007
1950–1999	(869–062–00022–7)	46.00	Jan. 1, 2007
2000–End	(869–062–00023–5)	50.00	Jan. 1, 2007
8	(869–062–00024–3)	63.00	Jan. 1, 2007
9 Parts:			
1–199	(869–062–00025–1)	61.00	Jan. 1, 2007
200–End	(869–062–00026–0)	58.00	Jan. 1, 2007
10 Parts:			
1–50	(869–062–00027–8)	61.00	Jan. 1, 2007
51–199	(869–062–00028–6)	58.00	Jan. 1, 2007
200–499	(869–062–00029–4)	46.00	Jan. 1, 2007
500–End	(869–066–00030–8)	62.00	Jan. 1, 2007
11	(869–062–00031–6)	41.00	Jan. 1, 2007
12 Parts:			
1–199	(869–062–00032–4)	34.00	Jan. 1, 2007
200–219	(869–062–00033–2)	37.00	Jan. 1, 2007
220–299	(869–062–00034–1)	61.00	Jan. 1, 2007
300–499	(869–062–00035–9)	47.00	Jan. 1, 2007
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600–899	(869–062–00037–5)	56.00	Jan. 1, 2007
900–End	(869–062–00038–3)	50.00	Jan. 1, 2007
13	(869–062–00039–1)	55.00	Jan. 1, 2007
14 Parts:			
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60–139	(869–062–00041–3)	61.00	Jan. 1, 2007
140–199	(869–062–00042–1)	30.00	Jan. 1, 2007
200–1199	(869–062–00043–0)	50.00	Jan. 1, 2007
1200–End	(869–062–00044–8)	45.00	Jan. 1, 2007
15 Parts:			
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800–End	(869–062–00047–2)	42.00	Jan. 1, 2007
16 Parts:			
0–999	(869–062–00048–1)	50.00	Jan. 1, 2007
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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	(869–062–00055–3)	26.00	Apr. 1, 2007
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	(869–062–00062–6)	40.00	Apr. 1, 2007
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170–199	(869–062–00064–2)	50.00	Apr. 1, 2007
200–299	(869–062–00065–1)	17.00	Apr. 1, 2007
300–499	(869–060–00066–6)	30.00	Apr. 1, 2006
500–599	(869–060–00067–4)	47.00	Apr. 1, 2006
600–799	(869–062–00068–5)	17.00	Apr. 1, 2007
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	(869–062–00073–7)	45.00	Apr. 1, 2007
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
700–1699	(869–060–00077–1)	61.00	Apr. 1, 2006
*1700–End	(869–062–00078–2)	30.00	Apr. 1, 2007
25	(869–060–00079–8)	64.00	Apr. 1, 2006
26 Parts:			
*§§ 1.0–1–1.60	(869–062–00080–4)	49.00	Apr. 1, 2007
§§ 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	(869–062–00084–7)	56.00	Apr. 1, 2007
§§ 1.441–1.500	(869–060–00085–2)	58.00	Apr. 1, 2006
*§§ 1.501–1.640	(869–062–00086–3)	49.00	Apr. 1, 2007
§§ 1.641–1.850	(869–060–00087–9)	61.00	Apr. 1, 2006
§§ 1.851–1.907	(869–062–00088–0)	61.00	Apr. 1, 2007
§§ 1.908–1.1000	(869–062–00089–8)	60.00	Apr. 1, 2007
§§ 1.1001–1.1400	(869–060–00090–9)	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
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30–39	(869–060–00094–1)	41.00	Apr. 1, 2006
40–49	(869–062–00095–2)	28.00	Apr. 1, 2007
50–299	(869–062–00096–1)	42.00	Apr. 1, 2007

Title	Stock Number	Price	Revision Date
300–499	(869–060–00097–6)	61.00	Apr. 1, 2006
500–599	(869–062–00098–7)	12.00	[6] Apr. 1, 2007
*600–End	(869–062–00099–5)	17.00	Apr. 1, 2007
27 Parts:			
1–399	(869–060–00100–0)	64.00	Apr. 1, 2006
400–End	(869–062–00102–9)	18.00	Apr. 1, 2007
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0–42	(869–060–00102–6)	61.00	July 1, 2006
43–End	(869–060–00103–4)	60.00	July 1, 2006
29 Parts:			
0–99	(869–060–00104–2)	50.00	July 1, 2006
100–499	(869–060–00105–1)	23.00	July 1, 2006
500–899	(869–060–00106–9)	61.00	July 1, 2006
900–1899	(869–060–00107–7)	36.00	July 1, 2006
1900–1910 (§§ 1900 to 1910.999)	(869–060–00108–5)	61.00	July 1, 2006
1910 (§§ 1910.1000 to end)	(869–060–00109–3)	46.00	July 1, 2006
1911–1925	(869–060–00110–7)	30.00	July 1, 2006
1926	(869–060–00111–5)	50.00	July 1, 2006
1927–End	(869–060–00112–3)	62.00	July 1, 2006
30 Parts:			
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200–699	(869–060–00114–0)	50.00	July 1, 2006
700–End	(869–060–00115–8)	58.00	July 1, 2006
31 Parts:			
0–199	(869–060–00116–6)	41.00	July 1, 2006
200–499	(869–060–00117–4)	46.00	July 1, 2006
500–End	(869–060–00118–2)	62.00	July 1, 2006
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1–190	(869–060–00119–1)	61.00	July 1, 2006
191–399	(869–060–00120–4)	63.00	July 1, 2006
400–629	(869–060–00121–2)	50.00	July 1, 2006
630–699	(869–060–00122–1)	37.00	July 1, 2006
700–799	(869–060–00123–9)	46.00	July 1, 2006
800–End	(869–060–00124–7)	47.00	July 1, 2006
33 Parts:			
1–124	(869–060–00125–5)	57.00	July 1, 2006
125–199	(869–060–00126–3)	61.00	July 1, 2006
200–End	(869–060–00127–1)	57.00	July 1, 2006
34 Parts:			
1–299	(869–060–00128–0)	50.00	July 1, 2006
300–399	(869–060–00129–8)	40.00	July 1, 2006
*400–End & 35	(869–060–00130–1)	61.00	[8] July 1, 2006
36 Parts:			
1–199	(869–060–00131–0)	37.00	July 1, 2006
200–299	(869–060–00132–8)	37.00	July 1, 2006
300–End	(869–060–00133–6)	61.00	July 1, 2006
37	(869–060–00134–4)	58.00	July 1, 2006
38 Parts:			
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18–End	(869–060–00136–1)	62.00	July 1, 2006
39	(869–060–00137–9)	42.00	July 1, 2006
40 Parts:			
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52 (52.01–52.1018)	(869–060–00140–9)	60.00	July 1, 2006
52 (52.1019–End)	(869–060–00141–7)	61.00	July 1, 2006
53–59	(869–060–00142–5)	31.00	July 1, 2006
60 (60.1–End)	(869–060–00143–3)	58.00	July 1, 2006
60 (Apps)	(869–060–00144–7)	57.00	July 1, 2006
61–62	(869–060–00145–0)	45.00	July 1, 2006
63 (63.1–63.599)	(869–060–00146–8)	58.00	July 1, 2006
63 (63.600–63.1199)	(869–060–00147–6)	50.00	July 1, 2006
63 (63.1200–63.1439)	(869–060–00148–4)	50.00	July 1, 2006
63 (63.1440–63.6175)	(869–060–00149–2)	32.00	July 1, 2006
63 (63.6580–63.8830)	(869–060–00150–6)	32.00	July 1, 2006
63 (63.8980–End)	(869–060–00151–4)	35.00	July 1, 2006
64–71	(869–060–00152–2)	29.00	July 1, 2006
72–80	(869–060–00153–1)	62.00	July 1, 2006
81–85	(869–060–00154–9)	60.00	July 1, 2006
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86 (86.600–1–End)	(869–060–00156–5)	50.00	July 1, 2006
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190–259	(869–060–00161–1)	39.00	July 1, 2006
260–265	(869–060–00162–0)	50.00	July 1, 2006
266–299	(869–060–00163–8)	50.00	July 1, 2006
300–399	(869–060–00164–6)	42.00	July 1, 2006
400–424	(869–060–00165–4)	56.00	July 1, 2006
425–699	(869–060–00166–2)	61.00	July 1, 2006
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1–100	(869–060–00169–7)	24.00	July 1, 2006
*101	(869–060–00170–1)	21.00	[8] July 1, 2006
102–200	(869–060–00171–9)	56.00	July 1, 2006
201–End	(869–060–00172–7)	24.00	July 1, 2006
42 Parts:			
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400–413	(869–060–00174–3)	32.00	Oct. 1, 2006
414–429	(869–060–00175–1)	32.00	Oct. 1, 2006
430–End	(869–060–00176–0)	64.00	Oct. 1, 2006
43 Parts:			
1–999	(869–060–00177–8)	56.00	Oct. 1, 2006
1000–end	(869–060–00178–6)	62.00	Oct. 1, 2006
44	(869–060–00179–4)	50.00	Oct. 1, 2006
45 Parts:			
1–199	(869–060–00180–8)	60.00	Oct. 1, 2006
200–499	(869–060–00181–6)	34.00	Oct. 1, 2006
500–1199	(869–060–00182–4)	56.00	Oct. 1, 2006
1200–End	(869–060–00183–2)	61.00	Oct. 1, 2006
46 Parts:			
1–40	(869–060–00184–1)	46.00	Oct. 1, 2006
41–69	(869–060–00185–9)	39.00	Oct. 1, 2006
70–89	(869–060–00186–7)	14.00	Oct. 1, 2006
90–139	(869–060–00187–5)	44.00	Oct. 1, 2006
140–155	(869–060–00188–3)	25.00	Oct. 1, 2006
156–165	(869–060–00189–1)	34.00	Oct. 1, 2006
166–199	(869–060–00190–5)	46.00	Oct. 1, 2006
200–499	(869–060–00191–3)	40.00	Oct. 1, 2006
500–End	(869–060–00192–1)	25.00	Oct. 1, 2006
47 Parts:			
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20–39	(869–060–00194–8)	46.00	Oct. 1, 2006
40–69	(869–060–00195–6)	40.00	Oct. 1, 2006
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1 (Parts 52–99)	(869–060–00199–9)	49.00	Oct. 1, 2006
2 (Parts 201–299)	(869–060–00200–6)	50.00	Oct. 1, 2006
3–6	(869–060–00201–4)	34.00	Oct. 1, 2006
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Title	Stock Number	Price	Revision Date
15–28	(869–060–00203–1)	47.00	Oct. 1, 2006
29–End	(869–060–00204–9)	47.00	Oct. 1, 2006
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100–185	(869–060–00206–5)	63.00	Oct. 1, 2006
186–199	(869–060–00207–3)	23.00	Oct. 1, 2006
200–299	(869–060–00208–1)	32.00	Oct. 1, 2006
300–399	(869–060–00209–0)	32.00	Oct. 1, 2006
400–599	(869–060–00210–3)	64.00	Oct. 1, 2006
600–999	(869–060–00211–1)	19.00	Oct. 1, 2006
1000–1199	(869–060–00212–0)	28.00	Oct. 1, 2006
1200–End	(869–060–00213–8)	34.00	Oct. 1, 2006
50 Parts:			
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17.95(c)–end	(869–060–00216–2)	32.00	Oct. 1, 2006
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	(869–060–00219–7)	50.00	Oct. 1, 2006
200–599	(869–060–00220–1)	45.00	Oct. 1, 2006
600–659	(869–060–00221–9)	31.00	Oct. 1, 2006
660–End	(869–060–00222–7)	31.00	Oct. 1, 2006
CFR Index and Findings Aids	(869–062–00050–2)	62.00	Jan. 1, 2007
Complete 2007 CFR set		1,389.00	2007
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2007
Individual copies		4.00	2007
Complete set (one-time mailing)		332.00	2006
Complete set (one-time mailing)		325.00	2005

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 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.