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RESERVATIONS: (202) 741–6008

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Rules and Regulations

Federal Register

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[Docket No. AMS–CN–07–0094; CN–07–006]

Cotton Research and Promotion Program: Procedures for Conduct of Sign-up Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule will amend the rules and regulations regarding the procedures for the conduct of a sign-up period for eligible cotton producers and importers to request a continuance referendum on the 1991 amendments to the Cotton Research and Promotion Order (Order) provided for in the Cotton Research and Promotion Act (Act) amendments of 1990. The amendments will update various dates, name changes, addresses, and make other administrative changes.

EFFECTIVE DATE: September 7, 2007.

FOR FURTHER INFORMATION CONTACT: Shethir M. Riva, Chief, Research and Promotion Staff, Cotton Program, AMS, USDA, Stop 0224, 1400 Independence Ave., SW., Room 2639, Washington, DC 20250–0224, telephone (202) 720–6603, facsimile (202) 690–1718, or e-mail at *Shethir.riva@usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Cotton Research and Promotion Act (7 U.S.C. 2101–2118) provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his or her principal place of business, has jurisdiction to review the USDA's ruling, provided a complaint is filed within 20 days from the date of the entry of ruling.

Regulatory Flexibility Act

Pursuant to requirements set forth in the regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service has considered the economic effect of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small entities.

There are currently approximately 19,000 producers, and approximately 14,000 importers that are subject to the order. The majority of these producers and importers are small businesses under the criteria established by the Small Business Administration.

Only those eligible persons who are in favor of conducting a referendum would need to participate in the sign-up period. Of the 46,220 total valid ballots received in the 1991 referendum, 27,879, or 60 percent, favored the amendments to the Order, and 18,341, or 40 percent, opposed the amendments to the Order. This proposed rule would provide those persons who are not in favor of the continuance of the Order amendments an opportunity to request a continuance referendum.

The eligibility and participation requirements for producers and importers are substantially the same as the rules that established the eligibility and participation requirements for the 1991 referendum, and for the 1997 and 2001 sign-up period. The 1997 and 2001 sign-ups did not generate the required number of signatures to hold another referendum. The amendments proposed in this action would update various dates, name changes, addresses, and make other miscellaneous changes.

The proposed sign-up procedures would not impose a substantial burden or have a significant impact on persons subject to the Order, because participation is not mandatory, not all persons subject to the Order are expected to participate, and USDA will determine producer and importer eligibility. The information collection requirements under the Paperwork Reduction Act are minimal.

Paperwork Reduction Act

The information collections proposed by this rule will be carried out under the Office of Management and Budget (OMB) Control Number 0581–0093. This rule will not addd to the overall burden currently approved by OMB and assigned OMB Control Number 0581–0093 under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). This OMB Control Number is referenced in Section 1205.541 of the regulations.

Background

The 1991 amendments to the Cotton Research and Promotion Order (7 CFR 1205 *et seq.*) were implemented following the July 1991 referendum. The amendments were provided for in the Cotton Research and Promotion Act (7 U.S.C. 2101–2118) amendments of 1990. The amendments provided for: (1) Importer representation on the Cotton Board by an appropriate number of persons, to be determined by USDA, who import cotton or cotton products into the U.S., and whom USDA selects from nominations submitted by importer organizations certified by USDA; (2) assessments levied on imported cotton and cotton products at a rate determined in the same manner as for U.S. cotton; (3) increasing the amount USDA can be reimbursed for the conduct of a referendum from $200,000 to $300,000; (4) reimbursing government agencies that assist in administering the collection of assessments on imported cotton and cotton products; and (5) terminating the right of procedures to demand a refund of assessments.

On March 6, 2007, USDA issued a determination based on its review, (72 FR 9918), not to conduct a referendum regarding the 1991 amendments to the Order. However, the Act provides that USDA shall nevertheless conduct a referendum at the request of 10 percent or more of the total number of eligible producers and importers that voted in the most recent referendum. The Act provides for a sign-up period during which eligible cotton producers and importers may request that USDA conduct a referendum on continuation of the 1991 amendments to the Order. Accordingly, USDA will provide all eligible Upland cotton producers and importers an opportunity to request a continuance referendum regarding the 1991 amendments to the order. Accordingly, USDA will provide all eligible Upland cotton producers and importers an opportunity to request a continuance referendum regarding the 1991 amendments to the Order.

The sign-up period will be provided for all eligible producers and importers. Eligible cotton producers would be provided the opportunity to sign-up to request a continuance referendum in person at the county Farm Service Agency (FSA) office where their farm is located. If the producer's land is in more than one county, the producer shall sign-up at the county office where FSA administratively maintains and processes the producer's farm records. Producers who choose not to visit the county FSA office in person may request a sign-up form in the mail from the same office.

USDA would mail sign-up information, including a written request form, to all known, eligible, cotton importers. Importers who favor the conduct of a continuance referendum would return their signed request forms to USDA, FSA, DAFO, Attention: Rick Pinkston, P.O. Box 23103, Washington, DC 20026–3103.

Importers who do not receive a request form in the mail by September 4, 2007, and who meet the eligibility requirements to participate in the sign-up, may submit a written, signed, request for a continuance referendum. Such request must be accompanied by a copy of the U.S. Customs and Border Protection form 7501 showing payment of a cotton assessment for calendar year 2006. Requests and supporting documentation should be mailed to USDA, FSA, DAFO, Attention: Rick Pinkston, P.O. Box 23103, Washington DC 20026–3103.

The sign-up period will be from September 4, 2007, until November 30, 2007. Producer and importer forms shall only be counted if received by USDA during the stated sign-up period.

Section 8(c)2 of the Act provides that if USDA determines, based on the results of the sign-up, that 10 percent or more of the total number of eligible producers and importers that voted in the most recent 1991 referendum (i.e., 4,622) request a continuance referendum on the 1991 amendments, a referendum will be held within 12 months after the end of the sign-up period. In counting such requests, however, not more than 20 percent may be from producers from any one state or from importers of cotton. For example, when counting the requests, the AMS Cotton Program would determine the total number of valid requests from all cotton-producing states and from importers. Not more than 20 percent of the total requests will be counted from any one state or from importers toward reaching the 10 percent for 4,622 total signatures required to call for a referendum. If USDA determines that 10 percent or more of the number of producers and importers who voted in the most recent referendum favor a continuance referendum. A referendum will be held.

This rule amends the procedures for the conduct of the current sign-up period. The current rules and regulations provide for sections on definitions, supervision of the sign-up period, eligibility, participation in the sign-up period, counting requests, reporting results and instructions and forms.

In section 1205.18 the term ''Producer'' is further defined to ensure that all producers that planted cotton during 2006 will be eligible to participate in the sign-up period. In sections 1205.20, 1205.26, and 1205.27 ''calendar year 2001'' would change to ''calendar year 2006.'' In sections 1205.27, 1205.28, and 1205.29 sign-up period conduct dates, FSA reporting dates, and mailing addresses have been updated.

A proposed rule with a request for comments was published in the **Federal Register** on July 30, 2007, (72 FR 41460). No comments were received on the proposed rule; however, during the review process, USDA identified two beneficial changes. First, in § 1205.27 paragraph (c), USDA is changing the date from October 31, 2007, to November 30, 2007, to allow producers, who may need to submit supporting documentation to FSA County offices, the entire sign-up period to do so. The appropriate FSA office must receive all supporting documentation by November 30, 2007. Second, USDA is changing the date in § 1205.28 from November 1, 2007, to November 30, 2007, so FSA, who is assisting with the sign-up, can have the full allotted sign-up period before being required to begin to count requests.

Pursuant to 5 U.S.C. 533, it is found that good cause exists for not postponing the effective date of this rule until thirty days after publication in the **Federal Register** because: (1) The Department has determined that September 4, 2007, to November 30, 2007, are the preferable dates of the sign-up period; (2) is consistent with the intent of the Act; (3) interested persons have been provided an opportunity to submit written comments concerning the amendments to the sign-up procedures; and (4) the amendments merely update various dates, name changes, addresses and make other miscellaneous. Eligibility and participation requirements are substantially the same that were used in previous referenda and a sign-up period.

This rule amends the subpart to established procedures for use during the sign-up period. Accordingly, this rule is made final with the following changes.

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 1205, Subpart 1205.10 Through 1205.30

■ For the reasons set forth in the preamble, 7 CFR part 1205 is amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

■ 1. The authority citation to part 1205 continues to read as follows:

Authority: 7 U.S.C. 2101–2118 and 7 U.S.C. 7401.

■ 2. Section 1205.20 is revised to read as follows:

§ 1205.20 Representative period.

The term *representative period* means the 2006 calendar year.

■ 3. In § 1205.26, paragraphs (a)(1) and (a)(2) are revised as follows:

§ 1205.26 Eligibility.

* * * * *

(a) * * *

(1) Any person who was engaged in the production of Upland cotton during calendar year 2006; and

(2) Any person who was an importer of Upland cotton and imported Upland cotton in excess of the value of $2.00

per line item entry during calendar year 2006.

* * * * *

■ 4. Section 1205.27 is revised to read as follows:

§ 1205.27 Participation in the sign-up period.

The sign-up period will be from September 4, 2007, through November 30, 2007. Those persons who favor the conduct of a continuance referendum and who wish to request that USDA conduct such a referendum may do so by submitting such request in accordance with this section. All requests must be received by the appropriate USDA office by November 30, 2007.

(a) Before the sign-up period begins, FSA shall establish a list of known, eligible, Upland cotton producers in the country that it serves during the representative period, and AMS shall also establish a list of known, eligible Upland cotton importers.

(b) Before the start of the sign-up period, AMS shall mail a request form to each known, eligible, cotton importer. Importers who wish to request a referendum and who do not receive a request form in the mail by September 4, 2007, may particiapte in the sign-up period by submitting a signed, written request for a continuance referendum, along with a copy of a U.S. Customs and Border Protection form 7501 showing payment of a cotton assessment for calendar year 2006. Importers must submit their requests and supporting documents to USDA, FSA, DAFO, Attention: Rick Pinkston, P.O. Box 23103, Washington, DC 20026–3103. All requests and supporting documents must be received by November 30, 2007.

(c) Each person on the county FSA office lists may participate in the sign-up period. Eligible producers must date and sign their name on the ''County FSA Office Sign-up Sheet.'' A person whose name does not appear on the county FSA office list may participate in the sign-up period.

Such person must be identified on FSA–578 during the representative period or provide documentation that demonstrates that the person was a cotton producer during the representative period. Cotton producers not listed on the FSA–578 shall submit at least one sales receipt for cotton they planted during the representative period. Cotton producers must make requests to the county FSA office where the producer's farm is located. If the producer's land is in more than one county, the producer shall make request at the county officer where FSA administratively maintains and processes the producer's farm records. It is the responsibility of the person to provide the information need by the county FSA office to determine eligibility. It is not the responsibility of the county FSA office to obtain this information. If any person whose name does not appear on the county FSA office list fails to provide at least one sales receipt for the cotton they produced during the representative period, the county FSA office shall determine that such person is ineligible to participate in the sign-up period, and shall note ''ineligible'' in the remarks section next to the person's name on the county FSA office sign-up sheet. In lieu of personally appearing at a county FSA office, eligible producers may request a sign-up form from the county FSA office where the producer's farm is located. If the producer's land is in more than one county, the producer shall make the request for the sign-up form at the county office where the FSA administratively maintains and processes the producer's farm records. Such request must be accompanied by a copy of at least one sales receipt for cotton they produced during the representative period. The appropriate FSA office must receive all completed forms and supporting documentation by November 30, 2007.

■ 7. In § 1205.28, the first sentence is revised to read as follows:

§1205.28 Counting.

County FSA offices and FSA, Deputy Administrator for Field Operations (DAFO), shall begin counting requests no later than November 30, 2007. * * *

■ 8. Section 1205.29 is revised to read as follows:

§ 1205.29 Reporting results.

(a) Each county FSA office shall prepare and transmit to the state FSA office by December 7, 2007, a written report of the number of eligible producers who requested the conduct of a referendum, and the number of ineligible persons who made requests.

(b) DAFO shall prepare, by December 7, 2007, a written report of the number of eligible importers who requested the conduct of a referendum, and the number of ineligible persons who made requests.

(c) Each state FSA office shall, by December 7, 2007, forward all county reports to DAFO. By December 14, 2007, DAFO shall forward its report of the total number of eligible producers and importers that requested a continuance referendum, through the sign-up period, to the Deputy Administrator, Cotton Program, AMS, Stop 0224, 1400 Independence Ave., SW., Washington, DC 20250–0224.

Dated: August 28, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 07–4312 Filed 9–5–07; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27983; Directorate Identifier 2006–NM–192–AD; Amendment 39–15188; AD 2007–18–08]

RIN 2120–AA64

Airworthiness Directives; Avions Marcel Dassault-Breguet Model Falcon 10 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to all Avions Marcel Dassault-Breguet Model Falcon 10 airplanes. That AD currently requires either revising the airplane flight manual (AFM) and installing a placard in the flight deck to prohibit flight into known or forecasted icing conditions, or repetitively inspecting for delamination of the flexible hoses in the wing (slat) anti-icing system and performing corrective actions if necessary. That AD also provides optional terminating action for the repetitive inspections. This new AD mandates the previously optional terminating action. This AD results from a report of in-service delamination of a flexible hose in the slat anti-icing system at a time earlier than previously reported. We are issuing this AD to prevent collapse of the flexible hoses in the slat anti-icing system, which could lead to insufficient anti-icing capability and, if icing is encountered in this situation, could result in reduced controllability of the airplane.

DATES: This AD becomes effective October 11, 2007.

The Director of the Federal Register approved the incorporation by reference of Dassault Service Bulletin F10–313, Revision 1, dated May 10, 2006, as of October 11, 2007.

On September 26, 2005 (70 FR 53540, September 9, 2005), the Director of the Federal Register approved the

incorporation by reference of Dassault Alert Service Bulletin F10–A312, Revision 1, dated June 27, 2005, including the Service Bulletins Compliance Card.

On April 26, 2005 (70 FR 18282, April 11, 2005), the Director of the Federal Register approved the incorporation by reference of Dassault Alert Service Bulletin F10–A312, dated February 25, 2005.

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

Contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606, for service information identified in this AD.

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

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Operations office (telephone (800) 647–5527) is located on the ground floor of the West Building at the DOT 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 2005–18–14, amendment 39–14254 (70 FR 53540, September 9, 2005). The existing AD applies to all Avions Marcel Dassault-Breguet Model Falcon 10 airplanes. That NPRM was published in the **Federal Register** on April 24, 2007 (72 FR 20293). That NPRM proposed to retain the existing requirements: Either revising the airplane flight manual (AFM) and installing a placard in the flight deck to prohibit flight into known or forecasted icing conditions, or repetitively inspecting for delamination of certain flexible hoses in the wing (slat) anti-icing system and doing corrective actions if necessary. That NPRM also proposed to mandate the previously optional terminating action for the repetitive inspection requirements.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment that has been received on the NPRM.

Request To Revise Paragraph (l) of the NPRM

The commenter, Dassault, notes an error in paragraph (l) of the NPRM. As proposed, paragraph (l) referred to credit allowed for a hose replaced before the effective date ''of this service bulletin,'' but should have referred to the effective date ''of this AD.'' We agree and have corrected this inadvertent error in this final rule.

Additional Changes to Final Rule

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

In retaining the language from the existing AD, we inadvertently also restated an error in Note 3, which referred to ''paragraph (j)(1).'' There is no subparagraph in paragraph (j). We have revised Note 3 in this final rule to refer to ''paragraph (j).''

The NPRM restated paragraphs (h) and (j) from AD 2005–18–14. References to the effective date of this AD should be the effective date of AD 2005–18–14. These references have been clarified in the final rule.

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 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

The following table provides the estimated costs for U.S. operators to comply with this AD, at an average hourly labor rate of $80.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
AFM revision and placard installation (an option in AD 2005–18–14).	1	$0	$80	Up to 146	Up to $11,680.
Detailed inspection (an option in AD 2005–18–14).	1	0	$80, per inspection cycle.	Up to 146	Up to $11,680, per inspection cycle.
Borescope inspection (an option in AD 2005–18–14).	3	0	$240, per inspection cycle.	Up to 146	Up to $35,040, per inspection cycle.
Hose replacement (new action)	8	880	$1,520	Up to 146	Up to $221,920.

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 39–14254 (70 FR 53540, September 9, 2005) and by adding the following new airworthiness directive (AD):

2007–18–08 Avions Marcel Dassault-Breguet Aviation (AMD/BA): Amendment 39–15188. Docket No. FAA–2007–27983; Directorate Identifier 2006–NM–192–AD.

Effective Date

(a) This AD becomes effective October 11, 2007.

Affected ADs

(b) This AD supersedes AD 2005–18–14.

Applicability

(c) This AD applies to all Avions Marcel Dassault-Breguet Model Falcon 10 airplanes.

Unsafe Condition

(d) This AD results from a report of in-service delamination of a flexible hose in the slat anti-icing system at a time earlier than previously reported. We are issuing this AD to prevent collapse of the flexible hoses in the slat anti-icing system, which could lead to insufficient anti-icing capability and, if icing is encountered in this situation, could result in reduced controllability of the airplane.

Compliance

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

Restatement of the Requirements of AD 2005–18–14

Repetitive Detailed Inspections, or Airplane Flight Manual (AFM) Revision and Placard Installation

(f) Within 14 days after April 26, 2005 (the effective date of AD 2005–07–23, which was superseded by AD 2005–18–14), perform the actions specified in either paragraph (f)(1) or (f)(2) of this AD:

(1) Revise the Limitations section of the Dassault Aviation Falcon 10 AFM, and install a placard in the flight deck, to include the following information.

''Flights into known or forecasted icing conditions are prohibited.''

The AFM revision may be done by inserting a copy of this AD into the AFM. Install the placard on the pedestal in clear view of the pilot.

(2) Determine the part number of each flexible hose installed in the slat anti-icing system, perform a detailed inspection of the internal walls of the hoses for delamination, and perform any applicable corrective action, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Dassault Alert Service Bulletin F10–A312, dated February 25, 2005. If the part number for any hose cannot be determined, before further flight, replace that hose with a hose having part number (P/N) FAL1005D. Any corrective action must be done before further flight. Repeat the detailed inspection thereafter at intervals not to exceed 60 flight cycles or 3 months, whichever is first, until the actions required by paragraph (i) of this AD are accomplished.

Note 1: When a statement identical to that in paragraph (f)(1) of this AD has been included in the general revision of the AFM, the general revision may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Note 2: For the purposes of this AD, a detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required.''

(g) For airplanes on which the actions described in paragraph (f)(1) of this AD are performed, doing the actions described in paragraph (f)(2) of this AD is terminating action for the requirements of paragraph (f)(1) of this AD. Once the initial detailed inspection specified in paragraph (f)(2) of this AD is performed, the AFM limitation and placard required by paragraph (f)(1) of this AD may be removed.

Borescope Inspections

(h) For airplanes not operated under the limitation in paragraph (f)(1) of this AD: Before the next 10 flight cycles in which the slat anti-icing system is activated after September 26, 2005 (the effective date of AD 2005–18–14), do a borescope inspection of each flexible hose installed in the slat anti-icing system. Do all the inspections and any applicable corrective action (including replacing the hose with a new hose having P/N FAL1005D), by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Dassault Alert Service Bulletin F10–A312, Revision 1, dated June 27, 2005. Any corrective action must be done before further flight. Repeat the inspection thereafter at intervals not to exceed 10 flight cycles in which the slat anti-icing system is activated. Doing this inspection terminates the repetitive inspection requirements of paragraph (f)(2) of this AD.

(i) For airplanes on which the actions described in paragraph (f)(1) of this AD are performed, doing the actions described in paragraph (h) of this AD is terminating action for the requirements of paragraph (f)(1) of this AD. Once the initial borescope inspection specified in paragraph (h) of this AD is performed, the AFM limitation and placard required by paragraph (f)(1) of this AD may be removed.

AFM Revision

(j) For airplanes not operated under the limitation in paragraph (f)(1) of this AD: Before further flight after September 26, 2005, revise the Limitations section of the Dassault Aviation Falcon 10 AFM, to include the following information.

''After each flight in which the slat anti-ice system is activated, inform maintenance.''

The AFM revision may be done by inserting a copy of this AD into the AFM.

Note 3: When a statement identical to that in paragraph (j) of this AD has been included in the general revision of the AFM, the general revision may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

New Requirements of This AD

Hose Replacement

(k) Within 330 flight hours or 7 months after the effective date of this AD, whichever occurs first: Replace the flexible hoses installed in the slat anti-icing system with new hoses having P/N FAL1007, in accordance with the Accomplishment Instructions of Dassault Service Bulletin F10–313, Revision 1, dated May 10, 2006. This replacement terminates the requirements of paragraphs (f) through (j) of this AD. For airplanes previously operated under the limitation in paragraph (f)(1) of this AD: When the hoses have been replaced, the AFM limitation and placard required by paragraph (f)(1) of this AD may be removed. Repeat the hose replacement at intervals not to exceed 700 flight cycles.

(l) Replacement of a hose before the effective date of this AD in accordance with Dassault Service Bulletin F10–313, dated August 10, 2005, is acceptable for compliance with the requirements of paragraph (k) of this AD.

Alternative Methods of Compliance (AMOCs)

(m)(1) The Manager, International Branch, ANM–116, FAA, has the authority to approve

AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or 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 approved previously in accordance with AD 2005–18–14 is approved as an AMOC for the corresponding provisions of this AD.

Related Information

(n) European Aviation Safety Agency airworthiness directive 2006–0114, dated May 10, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(o) You must use the service bulletins identified in Table 1 of this AD 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 Dassault Service Bulletin F10–313, Revision 1, dated May 10, 2006, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On September 26, 2005 (70 FR 53540, September 9, 2005), the Director of the Federal Register approved the incorporation by reference of Dassault Alert Service Bulletin F10–A312, Revision 1, dated June 27, 2005, including the Service Bulletins Compliance Card.

(3) On April 26, 2005 (70 FR 18282, April 11, 2005), the Director of the Federal Register approved the incorporation by reference of Dassault Alert Service Bulletin F10–A312, dated February 25, 2005, including the Service Bulletins Compliance Card.

(4) Contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606, 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.*

TABLE 1.—SERVICE INFORMATION INCORPORATED BY REFERENCE

Service Bulletin	Revision level	Date
Dassault Alert Service Bulletin F10–A312, including the Service Bulletins Compliance Card	Original	February 25, 2005.
Dassault Alert Service Bulletin F10–A312, including the Service Bulletins Compliance Card	Revision 1	June 27, 2005.
Dassault Service Bulletin F10–313	Revision 1	May 10, 2006.

Issued in Renton, Washington, on August 17, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–17288 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27776; Directorate Identifier 2006–NM–170–AD; Amendment 39–15189; AD 2007–18–09]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to all Airbus Model A318–100, A319–100, A320–200, A321–100, and A321–200 series airplanes, and Model A320–111 airplanes. That AD currently requires an inspection to determine whether certain braking and steering control units (BSCUs) are installed or have ever been installed. For airplanes on which certain BSCUs are installed or have ever been installed, the existing AD requires an inspection of the nose landing gear (NLG) upper support, and corrective action if necessary; and a check of the NLG strut inflation pressure, and an adjustment if necessary. For some of these airplanes, the existing AD also requires a revision to the aircraft flight manual to incorporate an operating procedure to recover normal steering in the event of a steering failure. This new AD instead requires repetitive inspections of the NLG upper support, and related investigative/corrective actions in accordance with new service information; and removes the one-time inspection that was required by the existing AD. This new AD also provides an optional terminating action for the repetitive inspections. This AD results from a report of an incident where an airplane landed with the NLG turned 90 degrees from centerline, and from additional reports of NLG upper support anti-rotation lugs rupturing in service. We are issuing this AD to prevent landings with the NLG turned 90 degrees from centerline, which could result in reduced controllability of the airplane.

DATES: This AD becomes effective October 11, 2007.

The Director of the **Federal Register** approved the incorporation by reference of a certain publication listed in the AD as of October 11, 2007.

On November 30, 2005 (70 FR 70715, November 23, 2005), the Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD.

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

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Examining the Docket

You may examine the airworthiness directive (AD) docket on the Internet at *http://dms.dot.gov* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Operations office (telephone (800) 647–5527) is located on the ground floor of the West Building at the DOT 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 2005–24–06, amendment 39–14386 (70 FR 70715, November 23, 2005). The existing AD applies to all Airbus Model A318–100, A319–100, A320–200, A321–100, and A321–200 series airplanes, and Model A320–111

airplanes. That NPRM was published in the **Federal Register** on April 5, 2007 (72 FR 16749). That NPRM proposed to continue to require an inspection to determine whether certain braking and steering control units (BSCUs) are installed or have ever been installed. For airplanes on which certain BSCUs are installed or have ever been installed, that NPRM proposed to continue to require a revision to the aircraft flight manual (AFM) to incorporate an operating procedure to recover normal steering in the event of a steering failure. That NPRM also proposed to require repetitive inspections of the nose landing gear (NLG) upper support, and related investigative/corrective actions, and an optional terminating action for the repetitive inspections.

Comments

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

Support for the AD

The National Transportation Safety Board supports the adoption of the AD.

Request To Revise ''Optional Terminating Action'' Reference

Airbus requests that we rephrase the heading of paragraph (l), ''Optional Terminating Action,'' of the NPRM. Airbus states that the terminating action for the issue addressed by the NPRM is not yet available. According to Airbus, the terminating action will include implementation of a new BSCU standard, which is currently being defined. Therefore, Airbus suggests that instead of the title ''Optional Terminating Action,'' we use a different title, such as ''Action that Renders Void the Requirements of this AD,'' or equivalent wording. Airbus states that it is correct to say that the actions proposed in paragraph (l) of the NPRM would render void the requirements of this AD, and that no further action would be required by this AD. However, the terminating action for the issue will require installation of a new future BSCU standard. Airbus anticipates that it will require the installation of the future BSCU standard as a terminating action.

We disagree with the request to rephrase the title of paragraph (l) of this AD. We consider the phrase ''Action that Renders Void the Requirements of this AD,'' to be equivalent to the existing title ''Optional Terminating Action.'' Furthermore, this AD is fully consistent with European Aviation Safety Agency (EASA) airworthiness directive 2006–0174, dated June 21, 2006, which is the parallel EASA airworthiness directive to this AD. If EASA supersedes airworthiness directive 2006–0174 for any reason, we will consider additional rulemaking. We have not changed the AD in this regard.

Explanation of Editorial Change to Paragraph (l)

Paragraph (l) of the NPRM referred to ''standard L4.1 and L4.5.'' That paragraph should refer to ''standard L4.1 or L4.5.'' We have revised paragraph (l) of the final rule accordingly. This change will not affect accomplishment of the optional terminating action.

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 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

This AD affects about 720 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD. The average labor rate is $80 per work hour.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Fleet cost
Records review (required by AD 2005–24–06)	1	None	$80	$57,600.
AFM revision (required by AD 2005–24–06)	1	None	$80	$57,600.
Special detailed inspection in accordance with new service information (new action).	1	None	$80, per inspection cycle	$57,600, per inspection cycle.

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 39–14386 (70 FR 70715, November 23, 2005) and by adding the following new airworthiness directive (AD):

2007–18–09 AIRBUS: Amendment 39–15189. Docket No. FAA–2007–27776; Directorate Identifier 2006–NM–170–AD.

Effective Date

(a) This AD becomes effective October 11, 2007.

Affected ADs

(b) This AD supersedes AD 2005–24–06.

Applicability

(c) This AD applies to all Airbus Model A318, A319, A320, and A321 airplanes.

Unsafe Condition

(d) This AD results from a report of an incident where an airplane landed with the nose landing gear (NLG) turned 90 degrees from centerline, and from additional reports of NLG upper support anti-rotation lugs rupturing in service. We are issuing this AD to prevent landings with the NLG turned 90 degrees from centerline, which could result in reduced controllability of the airplane.

Compliance

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

Restatement of Certain Requirements of AD 2005–24–06

Records Review

(f) Within 5 days after November 30, 2005 (the effective date of AD 2005–24–06), perform a records review to determine whether the airplane is equipped with or has ever been equipped with an enhanced manufacturing and maintainability (EMM) braking and steering control unit (BSCU) part number (P/N) E21327001 (standard L4.1, installed by Airbus Modification 26965, or Airbus Service Bulletin A320–32–1912) or P/N E21327003 (standard L4.5, installed by Airbus Modification 33376, or Airbus Service Bulletin A320–32–1261). Airbus Service Bulletin A320–32–1310, dated February 8, 2006, is one approved method for doing the records review.

(g) For airplanes on which a records review required by paragraph (f) of this AD conclusively determines that the airplane is not and never has been equipped with a BSCU P/N E21327001 or P/N E21327003, no further action is required by this AD.

Airplane Flight Manual (AFM) Revision

(h) For airplanes that are not specified in paragraph (g) of this AD and on which Airbus Modification 31152 has not been incorporated in production (i.e., applicable only to aircraft with steering powered by the green hydraulic system): Within 10 days after November 30, 2005, revise the Limitation Section of the Airbus A318/319/320/321 Aircraft Flight Manual (AFM) to include the following information. This may be done by inserting a copy of this AD into the AFM:

''The ECAM message, in case of a nose wheel steering failure, will be worded as follows:

—''WHEEL N/W STRG FAULT'' for aircraft with the FWC E3 and subsequent standards
—''WHEEL N.W. STEER FAULT'' for aircraft with the FWC E2 Standard.

■ If the L/G SHOCK ABSORBER FAULT ECAM caution is triggered at any time in flight, and the WHEEL N/W STRG FAULT ECAM caution is triggered after the landing gear extension:

• When all landing gear doors are indicated closed on ECAM WHEEL page, reset the BSCU:

—A/SKID&N/W STRG—OFF THEN ON

• If the WHEEL N/W STRG FAULT ECAM caution is no longer displayed, this indicates a successful nose wheel re-centering and steering recovery.

—Rearm the AUTO BRAKE, if necessary.

• If the WHEEL N/W STRG FAULT ECAM caution remains displayed, this indicates that the nose wheel steering remains lost, and that the nose wheels are not centered.

—During landing, delay nose wheel touchdown for as long as possible.
—Refer to the ECAM STATUS.

■ If the WHEEL N/W STRG FAULT ECAM caution appears, without the L/G SHOCK ABSORBER FAULT ECAM caution:

—No specific crew action is requested by the WHEEL N/W STRG FAULT ECAM caution procedure.
—Refer to the ECAM STATUS.''

Note 1: When a statement identical to that in paragraph (h) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

New Requirements of This AD

Inspection Thresholds

(i) For airplanes that are not specified in paragraph (g) of this AD, at the earlier of the times specified in paragraphs (i)(1) and (i)(2) of this AD: Do a special detailed inspection (boroscopic) for broken or cracked NLG upper support lugs and missing cylinder lugs, and do all applicable related investigative/corrective actions before further flight. Do all actions in accordance with Airbus Technical Note 957.1901/05, dated October 18, 2005; or the Accomplishment Instructions of Airbus Service Bulletin A320–32–1310, dated February 8, 2006. After the effective date of this AD, only Airbus Service Bulletin A320–32–1310, dated February 8, 2006, may be used. Where the service bulletin specifies that restoring the NLG is necessary in accordance with Airbus recommendations, this AD requires restoring the NLG in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent). Repeat the inspection thereafter at the applicable interval specified in paragraph (j) or (k) of this AD.

(1) Within 100 flight cycles following an electronic centralized aircraft monitoring (ECAM) caution ''L/G SHOCK ABSORBER FAULT'' associated with at least one of the following centralized fault display system (CFDS) messages specified in paragraph (i)(1)(i), (i)(1)(ii), or (i)(1)(iii) of this AD.

(i) ''N L/G EXT PROX SNSR 24GA TGT POS.''

(ii) ''N L/G EXT PROX SNSR 25GA TGT POS.''

(iii) ''N L/G SHOCK ABSORBER FAULT 2526GM.''

(2) At the later of the times specified in paragraphs (i)(2)(i) and (i)(2)(ii) of this AD.

(i) Within 20 months, 6,000 flight hours, or 4,500 flight cycles since the date of issuance of the original French standard airworthiness certificate, or the original French export certificate of airworthiness, whichever occurs first.

(ii) Within 6 months, 1,800 flight hours, or 1,350 flight cycles after the effective date of this AD, whichever occurs first.

Repetitive Inspection Intervals

(j) For airplanes not specified in paragraph (g) of this AD that are equipped with EMM BSCU standard L4.1 or L4.5: Repeat the inspection specified in paragraph (i) of this AD thereafter at intervals not to exceed the earliest of 6 months; 1,800 flight hours; 1,350 flight cycles; or 100 flight cycles following certain ECAM cautions and CFDS messages, as specified in paragraph (i)(1) of this AD.

(k) For airplanes not specified in paragraph (g) of this AD that are equipped with EMM BSCU standard L4.8 or a non-EMM BSCU: Repeat the inspection specified in paragraph (i) of this AD thereafter at intervals not to exceed the earliest of 20 months; 6,000 flight hours; 4,500 flight cycles; or 100 flight cycles following certain ECAM cautions and CFDS messages, as specified in paragraph (i)(1) of this AD.

Note 2: For the purposes of this AD, a special detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. The examination is likely to make extensive use of specialized inspection techniques and/or equipment. Intricate cleaning and substantial access or disassembly procedure may be required.''

Optional Terminating Action

(l) For airplanes that are not specified in paragraph (g) of this AD: Installation of an NLG with new upper support anti-rotation lugs and new cylinder lugs, or installation of an NLG that was never driven by EMM BSCU standard L4.1 or L4.5; combined with

installation of an EMM BSCU standard L4.8 or a non–EMM BSCU; constitutes terminating action for the requirements of this AD. Do the installations in accordance with a method approved by either the Manager, International Branch, ANM–116; or the EASA (or its delegated agent). Chapter 32 of the Airbus A318/A319/A320/A321 Aircraft Maintenance Manual (AMM) is one approved method for doing the installations.

No Report Required

(m) Although Airbus Service Bulletin A320–32–1310, dated February 8, 2006, specifies sending certain inspection results to Airbus, this AD does not include that requirement.

Credit Paragraph

(n) Inspections done before the effective date of this AD in accordance with Chapter 12, Subject 12–14–32 of the Airbus A318/A319/A320/A321 AMM, as revised by Airbus A318/A319/A320/A321 AMM Temporary Revision 12–001, dated November 13, 2005, are acceptable for compliance with the requirements of paragraph (i) of this AD.

Alternative Methods of Compliance (AMOCs)

(o)(1) The Manager, International Branch, ANM–116, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) 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.

Related Information

(p) EASA airworthiness directive 2006–0174, dated June 21, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(q) You must use Airbus Technical Note 957.1901/05, dated October 18, 2005; or Airbus Service Bulletin A320–32–1310, dated February 8, 2006; as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Airbus Service Bulletin A320–32–1310, dated February 8, 2006, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On November 30, 2005 (70 FR 70715, November 23, 2005), the Director of the Federal Register approved the incorporation by reference of Airbus Technical Note 957.1901/05, dated October 18, 2005.

(3) Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, 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 August 17, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–17385 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27975 Directorate Identifier 2007–CE–041–AD; Amendment 39–15187; AD 2007–18–07]

RIN 2120–AA64

Airworthiness Directives; Piaggio Aero Industries S.p.A. Model P–180 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:

Several aircraft, at the factory, presented some debris in the hydraulic fluid of the steering system. Investigations revealed that some components of the steering system can be responsible for the fluid contamination because of an initial pollution on their manufacturing.

If not corrected, a contaminated fluid could cause malfunction and a possible jamming of the steering system.

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

DATES: This AD becomes effective October 11, 2007.

On October 11, 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 Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on July 16, 2007 (72 FR 38800). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Several aircraft, at the factory, presented some debris in the hydraulic fluid of the steering system. Investigations revealed that some components of the steering system can be responsible for the fluid contamination because of an initial pollution on their manufacturing.

If not corrected, a contaminated fluid could cause malfunction and a possible jamming of the steering system.

The superseded Airworthiness Directive (AD) 2007–0088–E was previously issued to address the unsafe condition.

The present Airworthiness Directive expands applicability of this AD to all P.180 'Avanti' series aircraft and the list of defective components as listed in revision 1 of Piaggio Aero Industries Mandatory Service Bulletin No 80–0236. This AD also requires Temporary Changes to the respective Airplane Flight Manual (AFM) and Aircraft Maintenance Manual (AMM) and introduces procedures to recondition defective units.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received.

Comment Issue: Replacement of Nose Landing Gear

One commenter suggests that the nose landing gear (NLG) does not need to be replaced as required in paragraph (f)(2)(ii) of this AD, but rather the steering actuator and manifold mounted to the NLG need to be replaced.

We agree with the commenter that it is the steering actuator and the manifold that need to be replaced and not the entire NLG. However, the service bulletin requires removing and sending the original NLG to a Messier-Dowty engineer to do the actuator and manifold replacement. The service bulletin then requires installing a serviceable NLG. The replacement NLG could be the original, which has been rebuilt according to Annex 8 of Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007 (Messier-Dowty Service Bulletin No. P180–32–24, dated May 15, 2007), or it could be an exchanged NLG that complies with this AD. We have

added a note to clarify that the NLG can be the same one that was removed if it has been serviced to comply with this AD.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

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

We might also have 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 63 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $5,040, or $80 per product.

In addition, we estimate that any necessary follow-on actions would take about 14 work-hours, for a cost of $1,120 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. 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) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–18–07 Piaggio Aero Industries S.p.A.: Amendment 39–15187; Docket No. FAA–2007–27975; Directorate Identifier 2007–CE–041–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 11, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model P–180 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 32: Landing Gear.

Reason

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

Several aircraft, at the factory, presented some debris in the hydraulic fluid of the steering system. Investigations revealed that some components of the steering system can be responsible for the fluid contamination because of an initial pollution on their manufacturing.

If not corrected, a contaminated fluid could cause malfunction and a possible jamming of the steering system.

The superseded Airworthiness Directive (AD) 2007–0088–E was previously issued to address the unsafe condition.

The present Airworthiness Directive expands applicability of this AD to all P.180 'Avanti' series aircraft and the list of defective components as listed in revision 1 of Piaggio Aero Industries Mandatory Service Bulletin No 80–0236. This AD also requires Temporary Changes to the respective Airplane Flight Manual (AFM) and Aircraft Maintenance Manual (AMM) and introduces procedures to recondition defective units.

Actions and Compliance

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

(1) Within the next 30 hours time-in-service (TIS) after October 11, 2007 (the effective date of this AD) or 30 days after October 11, 2007 (the effective date of this AD), whichever occurs first, inspect the identification of the steering actuator and the steering manifold installed on the airplane following Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007.

(2) If any steering actuator listed in annex 7.1 or manifold listed in annex 7.2 of Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May

15, 2007, is found in the inspection per paragraph (f)(1) of this AD:

(i) Before further flight after the inspection per paragraph (f)(1) of this AD, insert Temporary Change 3, issued March 15, 2007, into the LIMITATIONS section of Report 6591 (the airplane flight manual (AFM)) for P–180 Avanti Aircraft or Temporary Change 2, issued March 15, 2007, into the LIMITATIONS section of Report 180–MAN–0010–01100 (the AFM) for P–180 Avanti II aircraft. 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 do this action. Make an entry in the aircraft records showing compliance with this portion of the AD following section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(ii) Within the next 600 hours TIS after October 11, 2007 (the effective date of this AD) or 12 months after October 11, 2007 (the effective date of this AD), whichever occurs first, replace the nose landing gear (NLG) following Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007.

Note 1: The replacement NLG could be the same unit that was removed from the aircraft and serviced in accordance with Annex 8 of Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007 (Messier-Dowty Service Bulletin No. P180–32–24, dated May 15, 2007), or it could be a different NLG that complies with this AD.

(iii) After replacement of the NLG per paragraph (f)(2)(ii) of this AD, remove the steering system temporary limitations from the LIMITATIONS section of the AFM.

(3) Before further flight after accomplishment of the inspection specified in paragraph (f)(1) of this AD, do not install any steering actuator listed in annex 7.1 or manifold listed in annex 7.2 of Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007.

Note 2: We encourage you to incorporate Temporary Revision 1 into the maintenance program (aircraft maintenance manual (AMM) P.180 Avanti report 9066) or Temporary Revision 11 into the maintenance program (AMM P.180 Avanti II report 180–MAN–0200–01105). The temporary revisions require confirmation that the steering manifold and steering actuator are compliant with Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: The MCAI requires the initial inspection action within 5 hours TIS. We consider 5 hours TIS an urgent safety of flight compliance time, and we do not consider this unsafe condition to be an urgent safety of flight condition. Because we do not consider this unsafe condition to be an urgent safety of flight condition, we issued this action through the normal notice of proposed rulemaking (NPRM) AD process followed by this final rule. The initial compliance time of 30 hours TIS after the effective date of this AD or 30 days after the effective date of this AD, whichever occurs first, is an adequate compliance time for this AD action and met the FAA requirements for an NPRM followed by a final rule.

Other FAA AD Provisions

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

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

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Emergency Airworthiness Directive EAD No: 2007–0147–E, dated May 22, 2007; and Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007, for related information.

Material Incorporated by Reference

(i) You must use Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 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 Piaggio Aero Industries S.p.a., Via Cibrario, 4—16154 Genoa, Italy; telephone +39 010 06481 741; fax: +39 010 6481 309; e-mail: MMicheli@*piaggioaero.it.*

(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 August 24, 2007.

Brian A. Yanez,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–17304 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30567; Amdt. No. 3233]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 6, 2007. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 6, 2007.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; or

4. 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.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry. J. Hodges, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPs, Takeoff Minimums and/or ODPs. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the SIAPs, the associated Takeoff Minimums,and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure before adopting these SIAPs, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on August 24, 2007.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, under Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 27 SEP 2007

San Francisco, CA, San Francisco Intl, RNAV (GPS) X RWY 10R, Orig-A
Valdosta, GA, Valdosta Rgnl, ILS OR LOC RWY 35, Amdt 6
Valdosta, GA, Valdosta Rgnl, VOR RWY 35, Amdt 1
Great Falls, MT, Great Falls Intl, ILS OR LOC/DME RWY 3, Amdt 4, ILS RWY 3 (CAT II), ILS RWY 3 (CAT III)
Great Falls, MT, Great Falls Intl, RNAV (GPS) RWY 3, Amdt 2
Laconia, NH, Laconia Muni, Takeoff Minimums and Obstacle DP, Amdt 3

Effective 25 OCT 2007

Kobuk, AK, Kobuk, RNAV (GPS) RWY 9, Orig
Kobuk, AK, Kobuk, RNAV (GPS) RWY 27, Orig
Kobuk, AK, Kobuk, Takeoff Minimums and Obstacle DP, Orig
Siloam Springs, AR, Smith Field, RNAV (GPS) RWY 18, Orig
Siloam Springs, AR, Smith Field, RNAV (GPS) RWY 36, Orig
Siloam Springs, AR, Smith Field, VOR–A, Amdt 9
Siloam Springs, AR, Smith Field, Takeoff Minimums and Obstacle DP, Orig
Stuttgart, AR, Stuttgart AR, RNAV (GPS) RWY 36, Amdt 1
St. Johns, AZ, St. Johns Industrial Air Park, RNAV (GPS) RWY 32, Orig-A
Los Angeles, CA, Los Angeles Intl, RNAV (GPS) RWY 25L, Amdt 1A
San Francisco, CA, San Francisco Intl, RNAV (RNP) Y RWY 28R, Orig-B
Middletown, DE, Summit, NDB–A, Amdt 7
Sebring, FL, Sebring Regional, Takeoff Minimums and Obstacle DP, Orig

Tallahassee, FL, Tallahassee RGNL, Takeoff Minimums and Obstacle DP, Orig
Cartersville, GA, Cartersville, Takeoff Minimums and Obstacle DP, Amdt 1
Jasper, GA, Pickens County, RNAV (GPS) RWY 16, Orig
Jasper, GA, Pickens County, RNAV (GPS) RWY 34, Orig
Jasper, GA, Pickens County, GPS RWY 34, Orig, CANCELLED
Jasper, GA, Pickens County, Takeoff Minimums and Obstacle DP, Amdt 1
Fairfield, IA, Fairfield Muni, RNAV (GPS) RWY 18, Amdt 2
Fairfield, IA, Fairfield Muni, RNAV (GPS) RWY 36, Amdt 1
Fairfield, IA, Fairfield Muni, NDB RWY 36, Amdt 9
Emporia, KS, Emporia Muni, RNAV (GPS) RWY 1, Orig
Emporia, KS, Emporia Muni, RNAV (GPS) RWY 19, Orig
Emporia, KS, Emporia Muni, VOR–A, Amdt 14
Emporia, KS, Emporia Muni, GPS RWY 01, Orig, CANCELLED
Emporia, KS, Emporia Muni, GPS RWY 19, Orig, CANCELLED
Emporia, KS, Emporia Muni, Takeoff Minimums and Obstacle DP, Orig
McPherson, KS, McPherson, RNAV (GPS) RWY 18, Orig
McPherson, KS, McPherson, RNAV (GPS) RWY 36, Orig
McPherson, KS, McPherson, GPS RWY 18, Orig, CANCELLED
McPherson, KS, McPherson, GPS RWY 36, Amdt 1, CANCELLED
McPherson, KS, McPherson, Takeoff Minimums and Obstacle DP, Amdt 2
Wellington, KS, Wellington Muni, RNAV (GPS) RWY 17, Amdt 1
Wellington, KS, Wellington Muni, RNAV (GPS) RWY 35, Amdt 1
Wellington, KS, Wellington Muni, Takeoff Minimums and Obstacle DP, Orig
Chatham, MA, Chatham Municipal, Takeoff Minimums and Obstacle DP, Orig
Biddeford, ME, Biddeford Muni, Takeoff Minimums and Obstacle DP, Orig
Frenchville, ME, Northern Aroostook Rgnl, Takeoff Minimums and Obstacle DP, Orig
Portland, ME, Portland Intl Jetport, RADAR–1, Orig 28, CANCELLED
Frankfort, MI, Frankfort Dow Memorial Field, RNAV (GPS) RWY 15, Amdt 1
Frankfort, MI, Frankfort Dow Memorial Field, RNAV (GPS) RWY 33, Amdt 1
Frankfort, MI, Frankfort Dow Memorial Field, VOR/DME–A, Amdt 1
Fremont, MI, Fremont Muni, RNAV (GPS) RWY 18, Amdt 1
Fremont, MI, Fremont Muni, RNAV (GPS) RWY 36, Amdt 1
Bay St Louis, MS, Stennis Intl, RNAV (GPS) RWY 18, Orig
Bay St Louis, MS, Stennis Intl, RNAV (GPS) RWY 36, Orig
Bay St Louis, MS, Stennis Intl, VOR–A, Amdt 7
Bay St Louis, MS, Stennis Intl, VOR/DME RNAV OR GPS RWY 18, Amdt 2B, CANCELLED
Bay St Louis, MS, Stennis Intl, GPS RWY 36, Orig-B, CANCELLED
Bay St Louis, MS, Stennis Intl, Takeoff Minimums and Obstacle DP, Orig
Raymond, MS, John Bell Williams, RNAV (GPS) RWY 12, Amdt 1
Raymond, MS, John Bell Williams, RNAV (GPS) RWY 30, Amdt 1
Raymond, MS, John Bell Williams, Takeoff Minimums and Obstacle DP, Amdt 2
Erwin, NC, Harnett County, RNAV (GPS) RWY 5, Amdt 2
Erwin, NC, Harnett County, RNAV (GPS) RWY 23, Amdt 2
Kinston, NC, Kinston Rgnl Jetport at Stallings Field, RNAV (GPS) RWY 5, Amdt 2
Kinston, NC, Kinston Rgnl Jetport at Stallings Field, RNAV (GPS) RWY 23, Amdt 2
Kinston, NC, Kinston Rgnl Jetport at Stallings Field, Takeoff Minimums and Obstacle DP, Orig
Nashua, NH, Boire Field, Takeoff Minimums and Obstacle DP, Amdt 2
Albany, NY, Albany Intl, COPTER ILS OR LOC/DME RWY 1, Amdt 1
Delaware, OH, Delaware Muni, Takeoff Minimums and Obstacle DP, Orig
Lebanon, OH, Lebanon-Warren County, RNAV (GPS) RWY 19, Amdt 1
Clinton, OK, Clinton Regional, RNAV (GPS) RWY 17, Amdt 1
Clinton, OK, Clinton Regional, RNAV (GPS) RWY 35, Amdt 2
Clinton, OK, Clinton Regional, Takeoff Minimums and Obstacle DP, Orig
Harrisburg, PA, Harrisburg Intl, Takeoff Minimums and Obstacle DP, Amdt 7
Anderson, SC, Anderson Rgnl, RNAV (GPS) RWY 5, Amdt 1A
Myrtle Beach, SC, Myrtle Beach Intl, ILS OR LOC RWY 18, Amdt 1G
Myrtle Beach, SC, Myrtle Beach Intl, ILS OR LOC RWY 36, Amdt 1D
Covington, TN, Covington Muni, Takeoff Minimums and Obstacle DP, Orig
Lexington-Parsons, TN, Beech River Regional, VOR–A, Orig-A
Brownfield, TX, Terry County, NDB RWY 2, Amdt 2A, CANCELLED
Denton, TX, Denton Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Auburn, WA, Auburn Muni, RNAV (GPS)–A, ORIG
Auburn, WA, Auburn Muni, Takeoff Minimums and Obstacle DP, Orig
Port Angeles, WA, William R Fairchild Intl, RNAV (GPS) RWY 8, Orig
Port Angeles, WA, William R Fairchild Intl, ILS OR LOC RWY 8, Amdt 2
Port Angeles, WA, William R Fairchild Intl, Takeoff Minimums and Obstacle DP, Amdt 2
Baraboo, WI, Baraboo Wisconsin Dells, LOC/DME RWY 1, Orig
Baraboo, WI, Baraboo Wisconsin Dells, VOR–A, Amdt 12
Boscobel, WI, Boscobel, Takeoff Minimums and Obstacle DP, Amdt 1
Lone Rock, WI, Tri-County Regional, LOC RWY 27, Orig
Middleton, WI, Middleton Muni-Morey Field, LOC/DME RWY 10, Orig
Phillips, WI, Price County, RNAV (GPS) RWY 1, Orig
Phillips, WI, Price County, RNAV (GPS) RWY 19, Orig
Phillips, WI, Price County, GPS RWY 1, Orig, CANCELLED
Phillips, WI, Price County, GPS RWY 19, Orig, CANCELLED
Gillette, WY, Gillette-Campbell County, VOR/DME RWY 16, Orig
Gillette, WY, Gillette-Campbell County, VOR RWY 16, Amdt 7, CANCELLED
Wheatland, WY, Phifer Airfield, RNAV (GPS)–A, Orig
Wheatland, WY, Phifer Airfield, Takeoff Minimums and Obstacle DP, Orig

Effective 20 DEC 2007

Monee, IL, Bult Field, VOR OR GPS RWY 5, Amdt 3, CANCELLED
Ann Arbor, MI, Ann Arbor Muni, Takeoff Minimums and Obstacle DP, Amdt 8
Pontiac, MI, Oakland County Intl, Takeoff Minimums and Obstacle DP, Amdt 4

Effective 14 FEB 2008

Chicago, IL, Chicago Midway Intl, ILS OR LOC RWY 4R, Orig-A

[FR Doc. E7–17345 Filed 9–5–07; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30568; Amdt. No. 3234]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes in the National Airspace System, such as the commissioning of new navigational facilities, adding of new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 6, 2007. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 6, 2007.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; or

4. 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.*

Availability—All SIAPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on August 24, 2007.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, LDA w/GS, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, MLS, TLS, GLS, WAAS PA, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; § 97.35 COPTER SIAPs, § 97.37 Takeoff Minima and Obstacle Departure Procedures. Identified as follows:

** * * Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	Subject
07/23/07	CO	Cortez	Cortez Muni	7/9598	TKOF MNMS & (OBSTACLE) DP, AMDT 3.
08/10/07	NY	Plattsburgh	Plattsburgh Intl	7/2234	RNAV (GPS) RWY 35, AMDT 1.
08/10/07	NY	Plattsburgh	Plattsburgh Intl	7/2233	VOR/DME RWY 35, ORIG–A.
08/10/07	NY	Plattsburgh	Plattsburgh Intl	7/2232	ILS or LOC/DME RWY 35, ORIG.
08/10/07	NY	Plattsburgh	Plattsburgh Intl	7/2229	RNAV (GPS) RWY 17, AMDT 1.
08/10/07	NY	Plattsburgh	Plattsburgh Intl	7/2227	ILS or LOC RWY 17, AMDT 1C.
08/13/07	AL	Gadsden	Northeast Alabama Regional	7/2668	GPS RWY 24, ORIG–A.

FDC date	State	City	Airport	FDC No.	Subject
08/13/07	CA	Santa Monica	Santa Monica Muni	7/2605	VOR or GPS–A, AMDT 10B.
08/14/07	AK	Palmer	Palmer Muni	7/2976	TKOF MNMS & (OBSTACLE) DP, ORIG.
08/15/07	DC	Washington	Ronald Reagan Washington Natl	7/3124	VOR/DME or GPS RWY 19, AMDT 9A.

[FR Doc. E7–17359 Filed 9–5–07; 8:45 am]
BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404, 405 and 416

[Docket No. SSA 2007–0032]

RIN 0960–AG47

Amendments to the Quick Disability Determination Process

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are amending our regulations to extend the quick disability determination process (QDD), which is operating now in the Boston region, to all of the State disability determination services (DDSs). We also are removing from the QDD process the existing requirements that each State DDS maintain a separate QDD unit and that each case referred under QDD be adjudicated within 20 days. These actions stem from our continuing effort to improve our disability adjudication process.

DATES: This rule is effective September 6, 2007. State agencies outside of the Boston region must notify SSA of the date by which they will be ready to accept QDD referrals. That date should be no earlier than October 9, 2007 and must be no later than March 4, 2008. State agencies must be ready to process claims referred under this rule no later than March 4, 2008.

FOR FURTHER INFORMATION CONTACT: Vince Sabatino, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–8331 for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html.*

Introduction

We are making final the rule we proposed in the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on July 10, 2007 at 72 FR 37496. We provide a summary of the provisions of the final rule below. We then provide a summary of the public comments and our reasons for adopting or not adopting the recommendations in the summaries of the comments in the section, ''Public Comments.'' The text of the final rule follows the preamble.

Quick Disability Determinations

We are dedicated to providing high-quality service to the American public. When we announced changes in March 2006 to our administrative review process for initial disability claims, we explained that we expected that the changes would improve disability service. Our commitment to continuous improvement in the way we process disability claims did not end with the publication of those rules as we continually explore ways to improve service to some of the most vulnerable in our society. We nevertheless face significant challenges now and in the foreseeable future in our ability to provide the level of service that disability benefit claimants deserve because of the increased complexity of and growth in claims for those benefits. Consequently, we are making modifications to our administrative review process that will further help us provide accurate and timely service to claimants for Social Security disability benefits and supplemental security income payments based on disability or blindness.

In early spring 2006, we published a final rule in which we laid out changes to the administrative review process for initial disability claims. We expected that the changes would ''improve the accuracy, consistency, and timeliness of decision-making throughout the disability determination process.'' 71 FR 16424 (March 31, 2006). We planned a gradual roll-out of the changes so that we could test them and their effect on the disability process overall. As we explained then, ''Gradual implementation will allow us to monitor the effects that our changes are having on the entire disability determination process.* * * We will carefully monitor the implementation process in the Boston region and quickly address any problems that may arise.'' 71 FR at 16440–41. Having thoroughly reviewed the initial determination level of that process, we have concluded that we need to modify some of the changes made last spring.

The changes in the March 2006 final rule included establishing, in the Boston region, an initial-determination-level process to identify and accelerate the adjudication of the claims of persons who have a ''high degree of probability'' of being disabled, where there was an expectation that the claimant's ''allegations will be easily and quickly verified * * *.'' 20 CFR 405.101–.110 (2006). We refer to this as the Quick Disability Determination (QDD) process. Under QDD, a predictive model analyzes specific elements of data within the electronic claims file to identify claims where there is a high potential that the claimant is disabled and where evidence of the claimant's allegations can be quickly and easily obtained. Those claims are then sent to a separate QDD unit in the State agency, where experienced disability examiners review the claims on an expedited basis. The QDD process in essence is a workload triaging tool that helps identify, in an automated fashion, claims where the disability should be easy to verify.

This process has been working quite well. Because our experience with QDD has been very favorable, has proven to be of significant benefit to those claimants who have been affected by it, has been well-received by the State agencies in the Boston region, and has shown that there are no significant administrative costs associated with it, we are accelerating our implementation of the QDD process and extending QDD to all States.

Nevertheless, in order to improve the efficiencies that we have seen by using the QDD process, we are modifying those aspects of the QDD process that have served as a barrier to the type of outstanding public service that we strive to provide. These modifications will give State agencies greater flexibility in managing their QDD workloads. Specifically, we are eliminating the requirement that QDD claims be

adjudicated within 20 days of receipt in the State agency and removing the performance standard and sanction provisions related to that 20-day adjudication requirement. We also are eliminating the requirement that separate QDD units be established within the State agencies.

The QDD rules published in 2006 required the State agency to adjudicate any claim referred to it under QDD within 20 days of the date the claim was received in the QDD unit; any QDD claim not decided within this time frame had to be returned by the QDD unit for regular processing in the State agency. We are eliminating this 20-day requirement for three reasons. First, the early information concerning processing times for QDD claims is quite promising. The average QDD processing time for the Boston region State agencies has been approximately 12 days. For a large majority of the cases, they have processed claims selected for QDD in 9 days or less, and only a small minority of the claims exceeded the 20-day threshold. Given this experience, we are confident that the State agencies will continue to process the vast majority of QDD claims within 20 days. Eliminating the 20-day requirement will give the State agencies more flexibility in managing this workload.

Second, even where the processing time goes beyond 20 days, we believe disability claimants will be better served and the State agencies' resources will be better utilized by allowing the QDD examiner to complete the work on the claim, rather than requiring the examiner to return the claim for regular processing in the State agency.

Third, we are concerned that the need to obtain evidence within the 20-day period may unduly burden the medical and other providers who submit that evidence to us, and we have reports of some resistance from health care providers stemming from efforts to satisfy the 20-day deadline. In turn, delays in obtaining the evidence might cause an increasing number of otherwise suitable claims to be removed from the QDD process because of the 20-day rule.

Though we are eliminating the 20-day adjudication requirement to give State agencies greater flexibility, we still believe that State agencies should strive to adjudicate any claim referred under QDD within 20 days. We will gather data in order to monitor the performance of State agencies with these claims. SSA currently shares this information with appropriate oversight agencies and will continue to do so. We will consider broadly or selectively reinstituting a formal time deadline, if warranted.

Our second change to the QDD rules removes the requirement that State agencies create separate QDD units to handle the QDD claims we refer. Our intent when we created that requirement was to ensure that QDD claims were processed by individuals with the knowledge, training, and experience to effectively carry out the QDD function and to ensure that they could be held accountable for performing this important task. 71 FR at 16429. At the same time, we recognized the State agencies' need for flexibility in handling their workloads. 71 FR at 16429. Now that we have some experience with the QDD process, we believe the requirement of a separate QDD unit in each DDS is not necessary. Particularly in smaller States, we believe the requirement of a separate QDD unit may unnecessarily restrict the flexibility the State agency needs to best address its workloads. Therefore, we are eliminating the requirement that State agencies create a separate QDD unit. We will retain the existing requirement that all QDD claims be handled by designated disability examiners who have the knowledge, training, and experience to effectively carry out the QDD process. We believe this is sufficient to afford QDD cases the proper level of attention and accountability.

In light of these considerations, we are amending our regulations to require all State agencies that perform disability determinations for us to handle claims we refer to them under QDD and to remove from the QDD rules the 20-day performance standard and the separate unit requirements discussed above. In addition, because we are accelerating our nationwide roll-out of the QDD process independent of the other changes in the March 2006 final rules, we are moving the substantive QDD rules from part 405 of our regulations to part 404, subpart Q, and part 416, subpart J, which contain the provisions covering the State agency determination process.

State agencies within the Boston region are already processing cases under QDD, and the changes we are making to the QDD process will apply to those State agencies immediately. However, we recognize that State agencies newly affected by this accelerated roll-out of the QDD process will need a reasonable time to establish QDD procedures and make any needed software modifications. Some State agencies may also need time to satisfy collective bargaining obligations. Therefore, we are allowing the State agencies outside of the Boston region additional time to prepare for the implementation of the QDD process. Each newly affected State agency must notify us of the date by which the State agency will be ready to accept QDD referrals. That date should be no earlier than 30 days from the date of publication of this rule and must be no later than 180 days from its publication. We will not refer any claims to a State agency outside the Boston region for processing under QDD until the earlier of the date that agency has notified us it will be ready to accept and process QDD referrals or the date 180 days from the publication of this final rule.

Notices of Initial Determinations

In this rule we also are revising the provisions in parts 404, 405 and 416 of our regulations that describe the contents of the notices we send to inform claimants of our initial determinations on our claims. The current regulatory provisions, while not substantively inconsistent with one another, are phrased differently. In order to avoid any unintended suggestion that we apply different standards when drafting the notices to which these various sections apply, we are revising the language to be consistent in all three sections. We wish to emphasize that we are not in any way changing the substance of what must be in our notices of initial determination, but rather are simply adopting more uniform language based on the statutory requirements in sections 205(b)(1), 205(s) and 1631(c)(1)(A) of the Social Security Act (Act).

Public Comments

In the NPRM we published on July 10, 2007 (72 FR 37496), we provided the public with a 30-day period in which to comment. That comment period ended on August 9, 2007.

We received timely comments from 21 individuals and organizations. We carefully considered all the comments. Because some of the comments were lengthy, we have summarized the comments. In addition, some of the comments did not relate to the Quick Disability Determination process. We have provided responses to each significant issue raised by commenters that was within the scope of this rule.

Comment: Many commenters expressed support for the proposed expansion of the QDD process and indicated that it will help alleviate delays in receiving disability determinations. However, several commenters expressed a concern that accelerating decisions at the initial level will increase the pending caseloads at

the subsequent levels of our administrative adjudicative process.

Response: We agree that improving our performance at the initial level, as these commenters recognized QDD would do, is only one part of the changes we need to make, and we want to assure the public that we are looking at a number of other areas as well. We have a number of initiatives underway, including proposals that will improve service at the reconsideration, hearings, and appeals levels of our administrative adjudicative process. We believe those other activities will address the commenters' concerns about processing times at the subsequent levels of our administrative process.

Comment: One commenter expressed concern that the predictive model is the sole method for identifying QDD claims. The commenter suggested allowing experienced disability examiners to refer cases for QDD processing based on their initial review of the claim.

Response: The QDD process is designed to take advantage of the technology now available to us to screen cases automatically and select for QDD processing those cases that involve a high potential that the claimant is disabled and that require evidence that can be easily and quickly obtained to support the claimant's allegations. We believe the predictive model that has been developed, and that we will revise as appropriate, will identify the appropriate cases for QDD processing. We therefore are not adopting the suggestion to let disability examiners or others involved in the claims-taking process select cases for QDD processing based on their own assessment of the case.

Comment: Several commenters expressed concern that eliminating the 20-day time limit for processing QDD claims would lessen the likelihood of quick determinations. These commenters also stated that it will be difficult to monitor State agency performance in the QDD process without any specific time limitations in the rule. Other commenters recognized the need to provide for additional time to obtain medical evidence without removing a claim from the QDD process. Some of these commenters suggested retaining the 20-day time limit and allowing one 20-day extension to complete the QDD process. Others suggested adding incentives for meeting the time frames and sanctions where time frames are not met. On the other hand, several commenters supported the proposal to eliminate the 20-day time limit and related sanctions. They reasoned that the processing times for QDD cases in the Boston region showed that State agencies are completing most QDD cases well before the 20-day limit, demonstrating that the time limit is not necessary. Some of these commenters believed eliminating the time limit would give State agencies greater flexibility to handle their workloads.

Response: We understand the concerns on both sides of this question. We have decided to eliminate the 20-day time limit, as proposed, for several reasons. First, we believe that the QDD processing results in the Boston region amply demonstrate that our partners in the State agencies share our commitment to processing these cases as quickly as possible. They have completed most QDD cases well before the 20-day limit, which indicates to us that the time limit was not the reason for their performance. Second, as we discussed earlier, the 20-day time limit has proven too short for some cases, leading to reassignment as non-QDD cases and additional work that could have been avoided by allowing the cases to remain with the QDD examiner. While some commenters suggested allowing the QDD examiner to obtain an extension of time in those cases, we believe the additional burdens of obtaining or justifying such an extension would needlessly divert the examiner's attention from adjudicating claims. Third, we anticipate that we may increase the percentage of cases selected for QDD as we gain more experience with it. As we increase that percentage, the additional cases will be those where the indicators for QDD are not as strong as the cases selected earlier, and where the adjudication of the claim will be more difficult. We reasonably expect that such an increase in the percentage of cases selected will lead to longer average processing times, and we believe we need the flexibility to continually adjust our process as we do this. Eliminating the 20-day rule gives us more flexibility. Therefore, we are eliminating the 20-day limit on processing QDD cases.

Our goal of processing QDD claims within 20 days remains, however. As noted above, we will gather data in order to monitor the performance of State agencies with these claims. SSA currently shares this information with appropriate oversight agencies and will continue to do so. We also will consider adding incentives and sanctions as part of possible future changes to the QDD process if we determine that such changes are necessary.

Comment: Three organizations representing State and Federal employees supported our proposed elimination of the requirement for separate QDD units, stating that the removal of that requirement would provide greater flexibility and efficiency. One commenter suggested that State agencies be required to have separate QDD units for 2 years to ensure that staff is fully trained and any local issues are addressed.

Response: We agree with the commenters who believed that the flexibility and efficiency gains for the State agencies of eliminating the separate QDD unit requirement outweigh the advantages of retaining the requirement. Because all QDD claims must be assigned to experienced disability examiners, we do not agree with the suggestion that a separate unit be required for 2 years for training or other purposes. Therefore, we are eliminating the separate unit requirement.

Comment: Our proposed rule requires that a medical or psychological consultant verify that the medical evidence in the file is sufficient to determine that, as of the alleged onset date, the individual's physical or mental impairment(s) meets the standards established by us for making a quick disability determination. Two commenters suggested that the experienced disability examiners who will handle QDD cases be given the authority to make the quick disability determination on their own if they decide that a medical or psychological consultant is unnecessary. Another commenter supported our requirement for medical or psychological consultant review in all QDD cases, stating that it maintains the medical integrity of the QDD decision.

Response: We believe that medical or psychological consultant involvement in the disability determination is a critical component of the QDD process and helps ensure the quality of the determinations. Therefore, we are not adopting the suggestion to allow disability examiners to make determinations without a medical or psychological consultant's involvement.

Comment: Commenters also suggested expanding the use of the Single Decision Maker (SDM) case processing model currently operating in 20 States. They stated that SDM performance data show quicker processing times while maintaining the quality of the determinations. One commenter asked that we clarify how QDD's requirement for involvement of a medical or psychological consultant will work in States currently using the SDM model.

Response: We are still evaluating the SDM model. It is premature to make any decisions about expanding it to other States. Under the SDM model generally, the decision maker is directed to make

the disability determination ''after any appropriate consultation with a medical or psychological consultant.'' See 20 CFR 404.906(b)(2); 416.1406(b)(2). Because of the nature of the QDD process and the importance we are placing on the medical or psychological consultant's involvement in the QDD process, it is both ''appropriate'' and necessary in States operating under the SDM model for the decision maker to obtain the medical or psychological consultant involvement that is required by the QDD rules. We may revisit this question, however, during our evaluation of the SDM model.

Comment: One commenter believes that we should monitor the predictive model software to ensure that it selects only cases appropriate for QDD processing. The commenter also suggested expanding QDD ''compassionate reviews'' throughout the DDSs.

Response: As noted above, we agree with the need to monitor the predictive model software as part of our ongoing evaluation of the entire QDD process. We will make changes to the predictive model as data dictates. With regard to the comment on compassionate allowances, we recently published an advance notice of proposed rulemaking requesting public comments on the rules for compassionate allowances (72 FR 41649, July 31, 2007), and will consider any relevant comments we receive as we proceed with that initiative.

Comment: In the NPRM, we specifically requested comments on the lead time, if any, that State agencies outside the Boston region would need to implement these rules. We received only one comment on this question. That commenter, an organization that represents disability determination directors, suggested that most States could implement the QDD process within 30 days, even considering the need for systems changes, outreach to medical providers, and staff selection and training. The commenter acknowledged that States with specific collective bargaining obligations requiring negotiations for the designation of QDD adjudicators might need additional time to implement the QDD process.

Response: We appreciate the commenter's observations. Because the needs of individual State agencies may vary, particularly with regard to collective bargaining issues, we have provided in this final rule for additional time for State agencies outside the Boston region to become ready to accept QDD referrals. That lead time is provided in the **DATES** section of this final rule and discussed under the ''Quick Disability Determinations'' heading in the **SUPPLEMENTARY INFORMATION** section.

Comment: Four organizations representing individuals with disabilities expressed concerns about the QDD process in regard to low income claimants. They noted that to qualify for the QDD process, the claim must have a ''high degree of probability that the individual is disabled'' and the ''individual's allegations will be easily and quickly verified.'' They noted that many people with low incomes have difficulty obtaining ongoing medical care and, thus, may lack the readily available medical evidence to meet the QDD selection criteria. They urged us to consider ways to allow claims from such individuals to qualify for the QDD process.

Response: The ready availability of medical evidence to support the claimant's alleged disability is crucial to the QDD process. We recognize that some claimants may be disabled but, for financial or other reasons, will not have readily available medical evidence supporting their claim. In those cases, we expend considerable time and resources to get the medical evidence necessary to decide the claim, even to the extent of arranging for medical examinations at our expense. While we share the commenters' concerns for these claimants, we do not believe cases lacking the necessary medical evidence can benefit from the QDD process. Therefore, we will process these claims using existing procedures.

Comment: These same commenters urged us to expand the categories of claims that will satisfy the criteria of the predictive model and qualify for the QDD process. In particular, they suggested that more mental impairments be included in the QDD selection criteria.

Response: Our predictive model does not necessarily identify specific conditions, but rather considers a variety of factors, including medical history, treatment protocols, and medical signs and findings. We will continue to evaluate the predictive model and make appropriate changes as we gain more data and experience. We will consider the commenters' concerns during that process. However, the specific criteria of the predictive model are not prescribed by this rule, and therefore we are making no changes to this rule in response to this comment.

Comment: One commenter stated that we used inconsistent language in the preamble and in the proposed rule itself. The commenter correctly noted that in the proposed rule, in §§ 404.1619(a) and 416.1019(a), we referred to allegations being ''easily and quickly verified.'' However, the commenter stated that in the preamble, 72 FR at 37497, we referred to allegations that ''can be quickly and easily obtained.''

Response: We agree that our choice of words should be consistent, and in this instance we believe it was. The preamble language actually refers to claims ''where evidence of the claimant's allegations can be quickly and easily obtained.'' That is, we must be able to ''obtain'' the evidence and ''verify'' the allegations.

Regulatory Procedures

Executive Order 12866, as Amended

We have consulted with the Office of Management and Budget (OMB) and determined that this rule meets the criteria for a significant regulatory action under Executive Order 12866, as amended. Thus, it was reviewed by OMB.

Regulatory Flexibility Act

We certify that this rule will not have a significant economic impact on a substantial number of small entities as it affects only States and individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

This rule will impose no additional reporting or recordkeeping requirements requiring OMB clearance.

Federalism Impact and Unfunded Mandates Impact

We have reviewed this rule under the threshold criteria of Executive Order 13132 and the Unfunded Mandates Reform Act and have determined that it does not have substantial direct effects on the States, on the relationship between the national government and the States, on the distribution of power and responsibilities among the various levels of government, or on imposing any costs on State, local, or tribal governments. This rule does not affect the roles of the State, local, or tribal governments. However, the rule takes administrative notice of existing statutes governing the roles and relationships of the State agencies and SSA with respect to disability determinations under the Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind, Disability benefits; Old-Age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

20 CFR Part 405

Administrative practice and procedure; Blind, Disability benefits; Old-Age, Survivors, and Disability Insurance; Public assistance programs, Reporting and recordkeeping requirements; Social Security; Supplemental Security Income (SSI).

20 CFR Part 416

Administrative practice and procedure; Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Dated: August 17, 2007.

Michael J. Astrue,

Commissioner of Social Security.

■ For the reasons set out in the preamble, we are amending subparts J, P and Q of part 404, subparts A, B and I of part 405, and subparts I, J and N of part 416 as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart J—[Amended]

■ 1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a), (b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a), (b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Amend § 404.903 by revising paragraphs (x) and (y) to read as follows:

§ 404.903 Administrative actions that are not initial determinations.

* * * * *

(x) Determining whether to select your claim for the quick disability determination process under § 404.1619;

(y) The removal of your claim from the quick disability determination process under § 404.1619;

* * * * *

■ 3. Revise § 404.904 to read as follows:

§ 404.904 Notice of the initial determination.

We will mail a written notice of our initial determination to you at your last known address. The written notice will explain in simple and clear language what we have determined and the reasons for and the effect of our determination. If our determination involves a determination of disability that is in whole or in part unfavorable to you, our written notice also will contain in understandable language a statement of the case setting forth the evidence on which our determination is based. The notice also will inform you of your right to reconsideration. We will not mail a notice if the beneficiary's entitlement to benefits has ended because of his or her death.

Subpart P—[Amended]

■ 4. The authority citation for subpart P continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

§ 404.1503 [Amended]

■ 5. Amend § 404.1503 by removing the last sentence in paragraph (a).

Subpart Q—[Amended]

■ 6. The authority citation for subpart Q continues to read as follows:

Authority: Secs. 205(a), 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 421, and 902(a)(5)).

■ 7. Amend § 404.1602 by adding in alphabetical order a definition for ''Quick disability determination,'' to read as follows:

§ 404.1602 Definitions.

* * * * *

Quick disability determination means an initial determination on a claim that we have identified as one that reflects a high degree of probability that you will be found disabled and where we expect that your allegations will be easily and quickly verified.

* * * * *

■ 8. Amend § 404.1603 by revising paragraph (c)(2) to read as follows:

§ 404.1603 Basic responsibilities for us and the State.

* * * * *

(c) * * *

(2) Provide an organizational structure, adequate facilities, qualified personnel, medical consultant services, designated quick disability determination examiners (§§ 404.1619 and 404.1620(c)), and a quality assurance function (§§ 404.1620 through 404.1624);

* * * * *

■ 9. Add a new undesignated center heading following § 404.1618 and add new § 404.1619 to read as follows:

Quick Disability Determinations

§ 404.1619 Quick disability determination process.

(a) If we identify a claim as one involving a high degree of probability that the individual is disabled, and we expect that the individual's allegations will be easily and quickly verified, we will refer the claim to the State agency for consideration under the quick disability determination process pursuant to this section and § 404.1620(c).

(b) If we refer a claim to the State agency for a quick disability determination, a designated quick disability determination examiner must:

(1) Have a medical or psychological consultant verify that the medical evidence in the file is sufficient to determine that, as of the alleged onset date, the individual's physical or mental impairment(s) meets the standards we establish for making quick disability determinations;

(2) Make quick disability determinations based only on the medical and nonmedical evidence in the files; and

(3) Subject to the provisions in paragraph (c) of this section, make the quick disability determination by applying the rules in subpart P of this part.

(c) If the quick disability determination examiner cannot make a determination that is fully favorable to the individual or if there is an unresolved disagreement between the disability examiner and the medical or psychological consultant, the State agency will adjudicate the claim using the regularly applicable procedures in this subpart.

■ 10. Amend § 404.1620 by adding a new paragraph (c) to read as follows:

§ 404.1620 General administrative requirements.

* * * * *

(c) Each State agency will designate experienced disability examiners to handle claims we refer to it under § 404.1619(a).

PART 405—ADMINISTRATIVE REVIEW PROCESS FOR ADJUDICATING INITIAL DISABILITY CLAIMS

■ 11. The authority citation for part 405 continues to read as follows:

Authority: Secs. 201(j), 205(a)–(b), (d)–(h), and (s), 221, 223(a)–(b), 702(a)(5), 1601, 1602, 1631, and 1633 of the Social Security Act (42 U.S.C. 401(j), 405(a)–(b), (d)–(h), and (s), 421, 423(a)–(b), 902(a)(5), 1381, 1381a, 1383, and 1383b).

Subpart A—[Amended]

§ 405.5 [Amended]

■ 12. Amend § 405.5 by removing the definitions of the terms ''Quick disability determination'' and ''Quick Disability Determination Unit.''

Appendix to Subpart A of Part 405 [Amended]

■ 13. Amend the appendix to subpart A by removing paragraph (d).

Subpart B—[Amended]

§ 405.101 [Amended]

■ 14. Amend § 405.101 by removing from the first sentence the phrase '', unless it makes a quick disability determination under §§ 405.105–.110,''.

§ 405.105 [Removed]

■ 15. Remove and reserve § 405.105.

§ 405.110 [Removed]

■ 16. Remove and reserve § 405.110.

■ 17. Revise § 405.115 to read as follows:

§ 405.115 Notice of the initial determination.

We will mail a written notice of our initial determination to you at your last known address. The written notice will explain in simple and clear language what we have determined and the reasons for and the effect of our determination. If our determination involves a determination of disability that is in whole or in part unfavorable to you, our written notice also will contain in understandable language a statement of the case setting forth the evidence on which our determination is based. The notice also will inform you of your right to review by a Federal reviewing official and explain your right to representation. We will not mail a notice if the beneficiary's entitlement to benefits has ended because of his or her death.

Subpart I—[Removed]

■ 18. Remove and reserve subpart I, consisting of §§ 405.801 through 405.850.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—[Amended]

■ 19. The authority citation for subpart I is revised to read as follows:

Authority: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), (d)(1), and (p), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

§ 416.903 [Amended]

■ 20. Amend § 416.903 by removing the last sentence in paragraph (a).

Subpart J—[Amended]

■ 21. The authority citation for subpart J continues to read as follows:

Authority: Secs. 702(a)(5), 1614, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c, 1383, and 1383b).

■ 22. Amend § 416.1002 by adding a definition for ''Quick disability determination,'' to read as follows:

§ 416.1002 Definitions.

* * * * *

Quick disability determination means an initial determination on a claim that we have identified as one that reflects a high degree of probability that you will be found disabled and where we expect that your allegations will be easily and quickly verified.

* * * * *

■ 23. Amend § 416.1003 by revising paragraph (c)(2) to read as follows:

§ 416.1003 Basic responsibilities for us and the State.

* * * * *

(c) * * *

(2) Provide an organizational structure, adequate facilities, qualified personnel, medical consultant services, designated quick disability determination examiners (§§ 416.1019 and 416.1020(c)), and a quality assurance function (§§ 416.1020 through 416.1024);

* * * * *

■ 24. Add a new undesignated center heading following § 416.1018 and add new § 416.1019 to read as follows:

Quick Disability Determinations

§ 416.1019 Quick disability determination process.

(a) If we identify a claim as one involving a high degree of probability that the individual is disabled, and we expect that the individual's allegations will be easily and quickly verified, we will refer the claim to the State agency for consideration under the quick disability determination process pursuant to this section and § 416.1020(c).

(b) If we refer a claim to the State agency for a quick disability determination, a designated quick disability determination examiner must:

(1) Have a medical or psychological consultant verify that the medical evidence in the file is sufficient to determine that, as of the alleged onset date, the individual's physical or mental impairment(s) meets the standards we establish for making quick disability determinations;

(2) Make quick disability determinations based only on the medical and nonmedical evidence in the files; and

(3) Subject to the provisions in paragraph (c) of this section, make the quick disability determination by applying the rules in subpart I of this part.

(c) If the quick disability determination examiner cannot make a determination that is fully favorable to the individual or if there is an unresolved disagreement between the disability examiner and the medical or psychological consultant, the State agency will adjudicate the claim using the regularly applicable procedures in this subpart.

■ 25. Amend § 416.1020 by adding a new paragraph (c) to read as follows:

§ 416.1020 General administrative requirements.

* * * * *

(c) Each State agency will designate experienced disability examiners to handle claims we refer to it under § 416.1019(a).

Subpart N—[Amended]

■ 26. The authority citation for subpart N continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 27. Amend § 416.1403 by revising paragraphs (a)(22) and (a)(23) to read as follows:

§ 416.1403 Administrative actions that are not initial determinations.

(a) * * *

(22) Determining whether to select your claim for the quick disability determination process under § 416.1019;

(23) The removal of your claim from the quick disability determination process under § 416.1019;

* * * * *

■ 28. Amend § 416.1404 by revising paragraph (a), removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

The revision reads as follows:

§ 416.1404 Notice of the initial determination.

(a) We will mail a written notice of our initial determination to you at your last known address. The written notice will explain in simple and clear language what we have determined and the reasons for and the effect of our determination. If our determination involves a determination of disability that is in whole or in part unfavorable to you, our written notice also will contain in understandable language a statement of the case setting forth the evidence on which our determination is based. The notice also will inform you of your right to reconsideration. We will not mail a notice if the beneficiary's entitlement to benefits has ended because of his or her death.

* * * * *

[FR Doc. E7–17533 Filed 9–5–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–07–019]

RIN 1625–AA09

Drawbridge Operation Regulations; Norwalk River, Norwalk, CT

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard has changed the drawbridge operation regulations that govern the operation of the Washington Street S136 Bridge at mile 0.0, across the Norwalk River, Norwalk, Connecticut. This final rule allows the bridge to remain in the closed position to facilitate the annual Norwalk River Fun Run held on the first Saturday in December, with a rain date for the next day in the event of inclement weather. This final rule is necessary for the safety of the race participants and to facilitate the running of the annual Fun Run Race.

DATES: This rule is effective October 9, 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 (CGD01–07–019) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, (212) 668–7195.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 3, 2007, we published a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operation Regulations''; Norwalk River, Connecticut, in the **Federal Register** (72 FR 15852). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The Washington Street S136 Bridge has a vertical clearance of 9 feet at mean high water, and 16 feet at mean low water in the closed position. The existing drawbridge operation regulations are listed at 33 CFR 117.217(a).

The bridge owner, the Connecticut Department of Transportation, requested a change to the regulations to help facilitate the running of the annual Norwalk River Fun Run Event which is run on the first Saturday in December.

Under this final rule the Washington Street S136 Bridge would remain in the closed position from 10 a.m. through 12 p.m. on the first Saturday in December with a rain date for the next day, the first Sunday after the first Saturday in December in the event of inclement weather.

Discussion of Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking and as a result, no changes have been made to this 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.

This conclusion is based on the fact the bridge closure is of short duration and during a time period the bridge seldom receives a request to open.

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 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 conclusion is based on the fact that the bridge closure is of short duration and during a time period the bridge seldom receives a request to open.

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.

No small entities requested Coast Guard assistance and none was given.

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 a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have 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 standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides 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 section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation considering that it relates to the promulgation of operating regulations or procedures for drawbridges. Under figure 2–1, paragraph (32)(e), of the instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Section 117.217 is amended by revising paragraph (a) to read as follows:

§ 117.217 Norwalk River.

(a) The draw of the Washington Street S136 Bridge, mile 0.0, at Norwalk, shall operate as follows:

(1) The draw shall open on signal; except that, from 7 a.m. to 8:45 a.m., 11:45 a.m. to 1:15 p.m., and 4 p.m. to 6 p.m., Monday through Friday, except holidays, the draw need not be opened for the passage of vessels that draw less than 14 feet of water.

(2) The draw need not open for the passage of vessel traffic, from 10 a.m. to 12 p.m., on the first Saturday in December, to facilitate the running of the annual Norwalk River Fun Run. Should inclement weather force the postponement of the race the above bridge closure shall be implemented the next day, the first Sunday after the first Saturday in December, from 10 a.m. to 12 p.m.

(3) The bridge opening signal is three short blasts. Vessels drawing 14 feet of water or more shall add one prolonged blast after the three short blasts.

* * * * *

Dated: August 20, 2007.

Timothy S. Sullivan,

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

[FR Doc. E7–17567 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0572; FRL–8146–7]

Residues of Quaternary Ammonium Compounds di-n-Alkyl (C_{8-10}) dimethyl Ammonium chloride, Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends 40 CFR 180.940(a), the exemption from the requirement of a tolerance for residues of Quaternary Ammonium Compounds, di-n-Alkyl (C_{8-10}) dimethyl ammonium chloride, average molecular weight (in amu) 332 to 361 on food contact surfaces when applied/used in public eating places, dairy processing equipment, and food-processing equipment and utensils by increasing the allowable use solution concentrations of quaternary compounds. Lonza Inc. submitted a petition to EPA under the Federal Food,

Drug, and Cosmetic Act requesting an increase in the concentrations of quaternary compounds in end-use products eligible for the exemption. As amended, the regulation will exempt solutions from the requirement of a tolerance residues resulting from contact with surfaces treated with solutions where the end use concentration of the specific quaternary compounds does not exceed 240 parts per million (ppm) of active quaternary ammonium compounds, and the end-use concentration of all quaternary chemicals in the solution does not exceed 400 ppm of active quaternary compound.

DATES: This regulation is effective September 6, 2007. Objections and requests for hearings must be received on or before November 5, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0572. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Velma Noble, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–6233; e-mail address: *noble.velma@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in 40 CFR 180.940 *Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions)*, paragraph (a). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you my access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the Food Quality Protection Act (FQPA), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0572 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 5, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0572, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- Mail: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- Delivery: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of October 25, 2006 (71 FR 62458) (FRL–8099–6), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 6F7045) by Lonza, Inc, 90 Boroline Rd, Allendale, NJ 07401. The petition requested that 40 CFR 180.940(a) be amended by increasing concentration limits for aliphatic alkyl quaternary compounds in end-use solutions eligible for the tolerance exemption for Quaternary Ammonium compounds: Di-n-Alkyl (C_{8-10}) dimethyl ammonium chloride, average molecular weight (in amu) 332 to 361) on food contact surfaces in public eating places, dairy processing equipment, and food

processing equipment and utensils from 150 ppm to 240 ppm and the total end use concentration of all quaternary chemicals in solution from 200 ppm to 400 ppm. The notice referenced a summary of the petition prepared by Lonza Inc., 90 Boroline Rd Allendale, NJ 07401, the registrant, which is available to the public in the docket at *www.regulations.gov*, Docket ID Number EPA–HQ–OPP –2006–0572. There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(c)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C), which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

A. Toxic Effects

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by the Aliphatic Alkyl Quaternaries are discussed in this unit.

The Aliphatic Alkyl Quaternaries are corrosive, highly irritating to the eye and skin, with moderate acute toxicity by oral, dermal, and inhalation routes of exposure. These chemicals are classified as ''not likely'' to be a human carcinogen based on a negative carcinogenicity study in rats and mice feeding studies using doses above the limit. There is no evidence of these chemicals being associated with increased susceptibility to developmental toxicity or reproductive toxicity based on two developmental toxicity studies and a two-generation reproductive study. Lastly, they are negative for mutagenicity and neurotoxicity. Specific information on the studies received and the nature of the toxic effects caused by Di-n-Alkyl (C_{8-10}) dimethyl ammonium chloride, average molecular weight (in amu) 332 to 361) (DDAC) as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov*; Docket ID Number EPA–HQ–OPP–2005–0338; *Toxicology Disciplinary Chapter for the Reregistration Eligibility Decision (RED) for Didecyl Dimethyl Ammonium Chloride (DDAC).*

B. Toxic Endpoints

For hazards that have a threshold below which there is no appreciable risk, the dose at which no adverse effects are observed (NOAEL) from the toxicology study identified as appropriate for the risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in variations in sensitivity among members of the human population as well as other unknowns.

The Agency's level of concern (LOC) for residential Aliphatic Alkyl Quaternaries' inhalation and oral exposures is 100 (i.e., a margin of exposure (MOE) less than 100 exceeds the Agency's level of concern). The level of concern is based on 10x for interspecies extrapolation and 10x for intraspecies extrapolation. However, the uncertainty factor or ''target'' MOE for Aliphatic Alkyl Quaternaries' dermal exposures is 10 for residential scenarios. The target MOE was chosen because the established endpoint is for dermal irritation, not a systemic toxic effect. In addition, dermal irritation is considered a reversible and short-term effect, thus supporting a 10x uncertainty factor (half a log (10.5) or approximately 3x for interspecies extrapolation and half log (10.5) or approximately 3x for intraspecies variation). It should be noted that the determination to reduce the 100x UF to 10X UF for irritation endpoints is made on a case-by-case basis.

Aliphatic Alkyl Quaternaries toxicological endpoint summary is listed in the following table.

TABLE 1.—SUMMARY OF TOXICOLOGICAL ENDPOINTS FOR DDAC

Exposure Scenario	Dose Used in Risk Assessment (mg/kg/day)	Target MOE/UF, Special FQPA SF for Risk Assessment	Study and Toxicological Effects
Acute Dietary (Females 13–50) NOAEL (developmental) = 10 mg/kg/day	FQPA SF = 1 UF = 100 (10x inter-species extrapolation, 10x intra-species variation)	Parenatal Developmental Toxicity - Rat MRID 41886701 LOAEL = 20 mg/kg/day based on increased incidence of skeletal variations.	
	Acute RfD = 0.1 mg/kg/day (for Females age 13–50)		

TABLE 1.—SUMMARY OF TOXICOLOGICAL ENDPOINTS FOR DDAC—Continued

Exposure Scenario	Dose Used in Risk Assessment (mg/kg/day)	Target MOE/UF, Special FQPA SF for Risk Assessment	Study and Toxicological Effects
Acute Dietary(general population)	An acute dietary endpoint was not identified in the data base. This risk assessment is not required		
Chronic Dietary (general population)	NOAEL = 10 mg/kg/day	FQPA SF = 1 UF = 100 (10x inter-species extrapolation, 10x intra-species variation	Chronic Toxicity Study - Dog MRID 41970401 LOAEL = 20 mg/kg/day based on increased incidence of clinical signs in males and females and decreased total cholesterol levels in females
	Chronic RfD = 0.1 mg/kg/day		
Incidental Oral (Short-Term)	NOAEL (developmental) = 10 mg/kg/day	Target MOE = 100 (10x inter-species extrapolation, 10x intra-species variation) FQPA SF = 1	Prenatal Developmental Toxicity - Rat MRID 41886701 LOAEL = 20 mg/kg/day based on increased incidence of skeletal variations.
Incidental Oral (Intermediate-Term)	NOAEL = 10 mg/kg/day	Target MOE = 100 (10x inter-species extrapolation, 10x intra-species variation) FQPA SF = 1	Chronic Toxicity Study - Dog MRID 41970401 LOAEL = 20 mg/kg/day based on increased incidence of clinical signs in males and females and decreased total cholesterol levels in females.
Dermal, Short-term (formulated product 0.13% a.i.)	No endpoint identified. No dermal or systemic effects identified in the 21–day dermal toxicity study (MRID 45656601) up to and including the limit dose of 1,000 mg/kg/day		
Dermal, Short-term[a]	NOAEL (dermal) = 2 mg/kg/day(8 μg/cm^2)	Target MOE = 10 (3x inter-species extrapolation, 3x intra-species variation)	90–day Dermal Toxicity - Rat MRID 41305901 LOAEL = 6 mg/kg/day based on increased clinical and gross findings (erythema, edema, exfoliation, excoriation, and ulceration)
Dermal, Intermediate- and Long-term	No appropriate endpoint identified		
Inhalation, Short-Term	NOAEL[b] = 10 mg/kg/day	Target MOE = 100 (10x inter-species extrapolation, 10x intra-species variation) FQPA SF = 1	Prenatal Developmental Toxicity - Rat MRID 41886701 LOAEL = 20 mg/kg/day based on increased incidence of skeletal variations.
Inhalation, Intermediate- and Long-Term	NOAEL[b] = 10 mg/kg/day	Target MOE = 100 (10x inter-species extrapolation, 10x intra-species variation) FQPA SF = 1	Chronic Toxicity Study - Dog MRID 41970401 LOAEL = 20 mg/kg/day based on increased incidence of clinical signs males and females and decreased total cholesterol levels in females.

UF = uncertainty factor, FQPA SF = special FQPA safety factor, NOAEL = no observed adverse effect level, LOAEL = lowest observed adverse effect level, PAD = population adjusted dose (a = acute, c = chronic), RfD = reference dose, MOE = margin of exposure, LOC = Level of concern, NA = Not Applicable.

[a] Short-term dermal endpoint = (2 mg/kg rat x 0.2 kg rat x 1,000 μg/mg) ÷ 50 cm^2 area of rat dosed = 8 μg/cm^2.

[b] An additional UF of 10x is used for route extrapolation from an oral endpoint to determine if a confirmatory study is warranted.

IV. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

Aliphatic Alkyl Quaternaries are used as a sanitizer on counter tops, utensils, appliances, tables, refrigerators, food packaging, and beverage bottling. The use of Aliphatic Alkyl Quaternaries as an antimicrobial product on food or feed contact surfaces, agricultural commodities, and application to food-grade eggs may result in pesticide residues in human food. Residues from treated surfaces, such as utensils, countertops, equipment, and appliances can migrate to food coming into contact with the treated and rinsed surfaces and can be ingested by humans.

1. *Food*. The Agency assessed acute and chronic dietary exposure from the use of Aliphatic Alkyl Quaternaries as a disinfectant and food contact sanitizer on direct and indirect food-contact surfaces. This assessment calculated the Daily Dietary Dose (DDD) and the Estimated Daily Intake (EDI) using an FDA model (2003). The FDA model takes into account application rates, residual solution, area of the treated surface which comes into contact with food, pesticide migration fraction, and body weight.

The EDI calculations presented in this assessment are based on the assumption that food can contact 2,000 cm^2 of treated surface per day (which represents contact with a treated countertop surface area), 4,000 cm^2 of treated surface per day (which represents contact with treated silverware, china, and glass used by an individual who regularly eats three meals per day at an institutional or public facility), or 6,000 cm^2 of treated surface per day (which represents treated countertops, silverware, china,

and glass by an individual who regularly eats three meals per day at an institutional or public facility). It also assumes that 10% of the pesticide would migrate to food.

When assessing the food bottling/packaging use, EPA assumed a 100% transfer rate because the food is potentially in contact with the treated surfaces for very long periods of time. The maximum application rate for Aliphatic Alkyl Quaternaries for bottling/packaging of food is 0.0020 lbs active ingredient (a.i) per gallon of treatment solution. EDI values were calculated using an approach similar to that used for treated food-contact surfaces and food utensils. Exposure was assumed to occur through the ingestion of three food products that might be packaged with treated material: milk, egg products, and beverages (alcoholic and non-alcoholic). A calorie intake modification factor of 0.64 was applied to the EDI for a child to account for the differences between intake values among children and adults.

2. *Drinking water exposure*. The only Aliphatic Alkyl Quaternaries outdoor uses are an algaecide in decorative/swimming pools, antisapstain wood preservative treatment, once-through cooling tower treatment, and oil field uses. The pond and oil field uses are considered to be contained. The other uses are not expected to significantly contaminate drinking water sources. Therefore, the Aliphatic Alkyl Quaternaries contributions for drinking water exposure are considered to be negligible and are not quantified.

It should be noted that the Agency estimated concentrations for exposure to aquatic animals resulting from the antisapstain and cooling tower uses. These levels were not considered appropriate for use in the drinking water assessment due to the very conservative nature of the models used, that the model estimates runoff/point source concentrations and not water body concentrations, and the fact that the models does not account for dilution.

Specific information on the dietary and drinking water exposure assessments for Aliphatic Alkyl Quaternaries can be found at *http://www.regulations.gov*; Docket ID Number EPA–HQ–OPP–2006–0338; *Dietary Risk Assessment on DDAC and Tier 1 Drinking Water Assessment for Alkyl Dimethyl Benzyl Ammonium Chloride (ADBAC); Didecyl Dimethyl Ammonium Chloride (DDAC)*.

B. Other Non-Occupational Exposure

The residential exposure assessment considers all potential non-occupational pesticide exposure, other than exposure due to residues in food or in drinking water. Exposures may occur during and after application as a hard surfaces disinfectant (e.g., walls, floors, tables, fixtures), to textiles (e.g., clothing, diapers) to swimming pools and to carpets. Each route of exposure (oral, dermal, inhalation) is assessed, where appropriate, and risk is expressed as a MOE, which is the ratio of estimated exposure to an appropriate NOAEL

Residential exposure may occur during the application of Aliphatic Alkyl Quaternaries to indoor hard surfaces (e.g., mopping, wiping, trigger pump sprays), carpets, swimming pools, wood as a preservative, textiles (e.g., diapers treated during washing and clothes treated with fabric spray), and humidifiers. The residential handler scenarios were assessed to determine dermal and inhalation exposures. Surrogate dermal and inhalation unit exposure values were estimated using data from the Pesticide Handler Exposure Database (PHED) and the Chemical Manufactures Association Antimicrobial Exposure Assessment Study (USEPA, 1999), and the SWIMODEL 3.0 was utilized to conduct exposure assessments of pesticides found in swimming pools and spas (Versar, 2003). Note that for this assessment, EPA assumed that residential users complete all elements of an application (mix/load/apply) without the use of personal protective equipment.

The duration for most residential exposures is believed to be best represented by the short-term duration (1 to 30 days). The short-term duration was chosen for this assessment because the residential handler and post-application scenarios are assumed to be performed on an episodic, not daily basis.

Based on toxicological criteria and the potential for exposure, the Agency has conducted dermal and inhalation exposure assessments for Aliphatic Alkyl Quaternaries residential use. As noted previously, MOEs greater than or equal to 100 for the inhalation route of exposure and 10 for dermal exposure are considered adequately protective for the residential exposure assessment.

Specific information on the residential exposure assessment for Aliphatic Alkyl Quaternaries can be found at *http://www.regulations.gov*; Docket ID Number EPA–HQ–OPP–2006–0338; *Didecyl Dimethyl Ammonium Chloride (DDAC) Occupational and Residential Exposure Assessment*.

V. Cumulative Effects

Another factor EPA must consider in making a section 408 reasonable certainty of no harm determination is any ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

The Aliphatic Alkyl Quaternaries are a group of structurally similar quaternary ammonium compounds that are characterized by having a positively charged nitrogen covalently bonded to two alkyl group substituents (at least one C_8 or longer) and two methyl substituents. In finished form, these quats are salts with the positively charged nitrogen (cation) balanced by a negatively charged molecule (anion). The anion for the quats in this cluster is chloride or bromide. Didecyl dimethyl ammonium chloride, or DDAC, was chosen as the representative chemical for this class in PR notice 88–2. On that basis, the toxicology database for DDAC is accepted as representative of the hazard for this class of quaternary ammonium compounds. However, the toxicologic responses observed from animal toxicity studies with DDAC are generalized responses to treatment and are difficult to attribute to any one mechanism.

EPA's risk assessment for the Group I Cluster is based on an assessment of the cumulative exposure to all aliphatic alkyl quaternary compounds. The individual exposure scenarios in the DDAC assessments (as well as the aggregate assessment in the RED) were developed by assuming that a DDAC compound was used on 100 percent of the surfaces authorized on the label that could result in human exposure and summing the percent active ingredients on the labels for all of the aliphatic alkyl quaternary compounds when used in combination. Thus, because the risk assessment for DDAC accounts for exposures to all of the aliphatic alkyl quaternary compounds, there is no need for a separate cumulative risk assessment for those compounds. The Agency has not identified any other substances as sharing a common mode of toxicity with DDAC.

VI. Safety Factor for Infants and Children

1. *In general*. Section 408 of FFDCA provides that EPA shall apply an additional tenfold (''10X'') margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the

completeness of the data base on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional uncertainty/safety factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity.* There is no evidence that Aliphatic Alkyl Quaternaries result in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the two-generation reproduction study.

3. *Conclusion.* EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings:

i. The toxicity database for Aliphatic Alkyl Quaternaries is complete for assessing risk to infants and children under the FFDCA.

ii. There is no indication that Aliphatic Alkyl Quaternaries are neurotoxic chemicals and there is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iii. There is no evidence that Aliphatic Alkyl Quaternaries result in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the two-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. Although EPA may, in the future, refine exposure estimates for Aliphatic Alkyl Quaternaries based on more sophisticated modeling techniques, the current exposure assessment is based on a combination of conservative assumptions that is likely to overstate exposure from food to Aliphatic Alkyl Quaternaries.

VII. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (''aPAD'') and chronic population adjusted dose (''cPAD''). The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short-, intermediate, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the MOE called for by the product of all applicable uncertainty/safety factors is not exceeded.

1. *Acute and chronic risk.* EPA compares the estimated dietary exposures to an aPAD and a cPAD, 0.1 mg/kg/day, which are the same value for the aliphatic alkyl quaternaries. Generally, a dietary exposure estimate that is less than 100% of the aPAD or cPAD does not exceed the Agency's levels of concern.

The antimicrobial indirect food use acute/chronic risk estimates from exposure to treated utensils and countertops are below the Agency's level of concern. For adults, the acute and chronic dietary exposure risk estimates are 3.32% of the aPAD and cPAD for adult females of child bearing age (13 to 50), the highly exposed adult group. For children ages 3 to 5, the most highly exposed population subgroup, the acute and chronic dietary risk estimates are 13.3% of the aPAD and cPAD. Therefore, dietary exposure estimates are below the Agency's level of concern for all population subgroups. The antimicrobial indirect food use acute/chronic risk estimates from exposure to treated food packaging and beverage bottles are below the the Agency's level of concern. Neither the percent aPAD or percent cPAD values exceeded 100% and are not of concern.

Specific information on the dietary exposure assessment for Aliphatic Alkyl Quaternaries can be found at *http://www.regulations.gov*; Docket ID Number EPA–HQ–OPP–2006–0338; *Dietary Risk Assessment on DDAC.*

2. *Non-occupational risk.* Aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Using the exposure assumptions described in this unit for other non-occupational exposures, EPA has concluded that food, water, and residential exposures aggregated result in aggregate MOEs greater than or equal to 100 for the inhalation route of exposure and 10 for dermal exposure; therefore, are not of concern.

3. *Aggregate cancer risk for U.S. population.* Based on the carcinogenic data, the EPA concludes that there is reasonable certainty that Aliphatic Alkyl Quaternaries doe not pose an aggregate cancer risk to the U. S. population.

4. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to Aliphatic Alkyl Quaternaries residues.

VIII. Other Considerations

A. Endocrine Disruptors

EPA is required under the FFDCA, as amended by FQPA, to develop a screening program to determine whether certain substances (including all pesticide active and other ingredients) ''may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or other such endocrine effects as the Administrator may designate.'' Following recommendations of its Endocrine Disruptor and Testing Advisory Committee (EDSTAC), EPA determined that there was a scientific basis for including, as part of the program, the androgen and thyroid hormone systems, in addition to the estrogen hormone system. EPA also adopted EDSTAC's recommendation that the Program include evaluations of potential effects in wildlife. For pesticide chemicals, EPA will use FIFRA and, to the extent that effects in wildlife may help determine whether a substance may have an effect in humans, FFDCA authority to require the wildlife evaluations. As the science develops and resources allow, screening of additional hormone systems may be added to the Endocrine Disruptor Screening Program (EDSP). When appropriate screening and/or testing protocols being considered under the Agency's Endocrine Disruption Screening Program (EDSP) have been developed, the Aliphatic Alkyl Quaternaries (DDAC) may be subjected to additional screening and/or testing to better characterize effects related to endocrine disruption.

B. Analytical Method(s)

An analytical method for food is not needed. Food contact sanitizers are typically regulated by state health departments to ensure that the food industry is using these products in compliance with the regulations in 40 CFR 180.940. The end use solution that is applied to the food contact surface is analyzed not food items that may come into contact with the treated surface. An analytical method is available to analyze the use dilution that is applied to food contact surfaces. A titration method is used to determine the total amount of quaternary compound. If the use solution is a mixture of DDAC and alkyl dimethyl benzyl ammonium chloride (ADBAC), then High Performance Liquid Chromatography using Ultra

Violet Detection (HPLC-UV) is used to determine the amount of ADBAC. The amount of DDAC is determined by calculating the difference between the total amount of quaternary compounds and ADBAC.

IX. Statutory and Executive Order Reviews

This final rule establishes a tolerance exemption under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

X. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Food contact sanitizers, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 29, 2007.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.940 is amended by revising the following entry to the table in paragraph (a):

§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).

* * * * *

(a) * * *

Pesticide Chemical	CAS Reg. No.	Limits
*	* * *	* * *
Quaternary Ammonium Compounds, Di-n-Alkyl (C_{8-10}) dimethyl ammonium chloride, average molecular weight (in amu) 332 to 361	None	When ready for use, the end-use concentration of these specific in quaternary ammonium compounds is not to exceed 240 ppm of active quaternary ammonium compound; the end-use concentration of all quaternary chemicals in the solution is not to exceed 400 ppm of active quaternary compound.
*	* * *	* * *

* * * * *

[FR Doc. E7–17634 Filed 9–5–07; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Chapter 2

RIN 0750–AF56

Defense Federal Acquisition Regulation Supplement; Emergency Acquisitions (DFARS Case 2006–D036)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to provide a single reference to DoD-unique acquisition flexibilities that may be used to facilitate and expedite acquisitions of supplies and services during emergency situations.

EFFECTIVE DATE: September 6, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Benavides, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–1302; facsimile (703) 602–7887. Please cite DFARS Case 2006–D036.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 72 FR 2631 on January 22, 2007, to provide a single reference to the acquisition flexibilities that may be used to facilitate and expedite DoD acquisitions of supplies and services during emergency situations. The rule supplements the Governmentwide acquisition flexibilities found in Part 18 of the Federal Acquisition Regulation.

DoD received no comments on the interim rule. Therefore, DoD has adopted the interim rule as a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule is a compilation of existing authorities, and makes no change to DoD contracting policy.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Chapter 2

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Chapter 2—Amended

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR Chapter 2, which was published at 72 FR 2631 on January 22, 2007, is adopted as a final rule without change.

[FR Doc. E7–17432 Filed 9–5–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 202 and 252

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to update the list of Air Force and Navy contracting activities and to remove obsolete text.

EFFECTIVE DATE: September 6, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0311; facsimile (703) 602–7887.

SUPPLEMENTARY INFORMATION: This final rule amends DFARS text as follows:

○ *Section 202.101.* Updates the list of Air Force and Navy contracting activities.

○ *Section 252.219–7009.* Removes an obsolete date within a reference to a partnership agreement between DoD and the Small Business Administration.

List of Subjects in 48 CFR Parts 202 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR Parts 202 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR Parts 202 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR chapter 1.

PART 202—DEFINITIONS OF WORDS AND TERMS

■ 2. Section 202.101 is amended in the definition of ''Contracting activity'' as follows:

■ a. In the list with the heading ''NAVY'', by removing ''Deputy, Acquisition Management, Office of the Assistant Secretary of the Navy (Research, Development, and Acquisition)'' and adding in its place ''Office of the Deputy Assistant Secretary of the Navy (Acquisition & Logistics Management)''; and

■ b. By revising the list with the heading ''AIR FORCE''.

The revised list reads as follows:

202.101 Definitions.

* * * * *

AIR FORCE

Office of the Assistant Secretary of the Air Force (Acquisition)
Office of the Deputy Assistant Secretary (Contracting)
Air Force District of Washington
Air Force Operational Test & Evaluation Center
Air Force Special Operations Command
United States Air Force Academy
Air Force Materiel Command
Air Force Reserve Command
Air Combat Command
Air Mobility Command
Air Education and Training Command
Pacific Air Forces
United States Air Forces in Europe
Air Force Space Command
Program Executive Office for Aircraft Systems
Program Executive Office for Command and Control & Combat Support Systems
Program Executive Office for Combat and Mission Support
Program Executive Office for F/A–22 Programs
Program Executive Office for Joint Strike Fighter

Program Executive Office for Weapons

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.219–7009 [Amended]

■ 3. Section 252.219–7009 is amended as follows:

■ a. By revising the clause date to read ''(SEP 2007)''; and

■ b. In paragraph (a), in the first sentence, by removing ''dated February 1, 2002,''.

[FR Doc. E7–17430 Filed 9–5–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 207 and 227

RIN 0750–AF70

Defense Federal Acquisition Regulation Supplement; Technical Data Rights (DFARS Case 2006–D055)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 802(a) of the National Defense Authorization Act for Fiscal Year 2007. Section 802(a) contains requirements for DoD to assess long-term technical data needs when acquiring major weapon systems and subsystems.

DATES: *Effective date:* September 6, 2007.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before November 5, 2007, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2006–D055, using any of the following methods:

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

○ *E-mail: dfars@osd.mil.* Include DFARS Case 2006–D055 in the subject line of the message.

○ *Fax:* (703) 602–7887.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

○ *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0328.

SUPPLEMENTARY INFORMATION:

A. Background

Section 802(a) of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364) requires that DoD program managers for major weapon systems, and subsystems of major weapon systems, assess the long-term technical data needs of such systems and subsystems and establish corresponding acquisition strategies that provide for technical data rights needed to sustain such systems and subsystems over their life cycle. This interim rule amends DFARS Parts 207 and 227 to implement Section 802(a) of Public Law 109–364. Although the law does not address requirements for computer software, it is long-standing DoD policy to apply the same or similar requirements to both technical data and computer software, since many issues are common to both. Therefore, this interim DFARS rule applies to both technical data and computer software.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule pertains to acquisition planning that is performed by the Government. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2006-D055.

C. Paperwork Reduction Act

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

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 802(a) of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364). Section 802(a) requires DoD to revise regulations to incorporate requirements for program managers to assess the long-term technical data needs of major weapon systems and subsystems, and to establish corresponding acquisition strategies that provide for technical data rights needed to sustain such systems and subsystems over their life cycle. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 207 and 227

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 207 and 227 are amended as follows:

■ 1. The authority citation for 48 CFR parts 207 and 227 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 207—ACQUISITION PLANNING

■ 2. Section 207.106 is amended by adding paragraph (S–70) to read as follows:

207.106 Additional requirements for major systems.

* * * * *

(S–70)(1) In accordance with Section 802(a) of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364) and DoD policy requirements, acquisition plans for major weapon systems and subsystems of major weapon systems shall—

(i) Assess the long-term technical data and computer software needs of those systems and subsystems; and

(ii) Establish acquisition strategies that provide for the technical data deliverables and associated license rights needed to sustain those systems and subsystems over their life cycle. The strategy may include—

(A) The development of maintenance capabilities within DoD; or

(B) Competition for contracts for sustainment of the systems or subsystems.

(2) Assessments and corresponding acquisition strategies developed under this section shall—

(i) Be developed before issuance of a solicitation for the weapon system or subsystem;

(ii) Address the merits of including a priced contract option for the future delivery of technical data and computer software, and associated license rights, that were not acquired upon initial contract award;

(iii) Address the potential for changes in the sustainment plan over the life cycle of the weapon system or subsystem; and

(iv) Apply to weapon systems and subsystems that are to be supported by performance-based logistics arrangements as well as to weapon systems and subsystems that are to be supported by other sustainment approaches.

PART 227—PATENTS, DATA, AND COPYRIGHTS

■ 3. Section 227.7103–1 is amended by adding paragraph (f) to read as follows:

227.7103–1 Policy.

* * * * *

(f) For acquisitions involving major weapon systems or subsystems of major weapon systems, the acquisition plan shall address acquisition strategies that provide for technical data and the associated license rights in accordance with 207.106(S–70).

■ 4. Section 227.7203–1 is amended by adding paragraph (e) to read as follows:

227.7203–1 Policy.

* * * * *

(e) For acquisitions involving major weapon systems or subsystems of major weapon systems, the acquisition plan shall address acquisition strategies that provide for computer software and computer software documentation, and the associated license rights, in accordance with 207.106(S–70).

[FR Doc. E7–17422 Filed 9–5–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212 and 234

RIN 0750–AF38

Defense Federal Acquisition Regulation Supplement; Acquisition of Major Weapon Systems as Commercial Items (DFARS Case 2006–D012)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 803 of the National Defense Authorization Act for Fiscal Year 2006. Section 803 places limitations on the acquisition of a major weapon system as a commercial item.

EFFECTIVE DATE: September 6, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Felisha Hitt, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0310; facsimile (703) 602–7887. Please cite DFARS Case 2006–D012.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 71 FR 58537 on October 4, 2006, to implement Section 803 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163). Section 803 permits the treatment or acquisition of a major weapon system as a commercial item only if (1) The Secretary of Defense determines that the major weapon system meets the definition of commercial item at 41 U.S.C. 403(12) and such treatment is necessary to meet national security objectives; and (2) the congressional defense committees are notified at least 30 days before such treatment or acquisition occurs.

DoD received no comments on the interim rule. Therefore, DoD has adopted the interim rule as a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule relates to internal DoD considerations regarding the acquisition of major weapon systems.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 212 and 234

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 212 and 234, which was published at 71 FR 58537 on October 4, 2006, is adopted as a final rule without change.

[FR Doc. E7–17428 Filed 9–5–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 216 and 252

RIN 0750–AF44

Defense Federal Acquisition Regulation Supplement; Labor Reimbursement on DoD Non-Commercial Time-and-Materials and Labor-Hour Contracts (DFARS Case 2006–D030)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to provide policy for reimbursing labor costs on competitively awarded DoD non-commercial time-and-materials and labor-hour contracts.

EFFECTIVE DATE: September 6, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (CPF), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

Telephone (703) 602–0326; facsimile (703) 602–7887. Please cite DFARS Case 2006–D030.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 71 FR 74469 on December 12, 2006, to clarify payment procedures for non-commercial time-and-materials and labor-hour contracts. Two sources submitted comments on the interim rule. A discussion of the comments is provided below.

1. *Comment:* One source stated that DoD should not require separate hourly rates for each category of labor performed by the contractor and each subcontractor on every competitively awarded non-commercial time-and-materials and labor-hour contract, since price competition will ensure the hourly rates are fair and reasonable and will eliminate potential abuses. The source also stated that the rationale cited in the interim rule for requiring separate hourly rates failed to address the benefits of adequate price competition and was not relevant to the requirement for separate rates. While not cited as rationale for requiring separate rates, the source stated that DoD may have adopted the rule to ensure subcontract labor meets the qualifications for the labor categories specified in the contract. If this is part of the rationale, DoD already has the ability to accomplish that objective through the subcontract consent provisions of FAR clause 52.244–2, which is mandatory for all time-and-materials contracts that exceed the simplified acquisition threshold. Another source stated that the rule eliminates the flexibility to select the proper approach, considering the advantages and disadvantages of the pricing options for hourly rates.

DoD Response: The FAR provisions authorize agencies to select, and make mandatory, one of the three options for pricing hourly rates. DoD believes it is in the best interest of the Department to select, and make mandatory, the FAR option that requires separate fixed hourly rates for each category of labor performed by the contractor and each subcontractor. DoD believes the rationale cited in the interim rule adequately supports the requirement for separate rates. That rationale is not based on the benefits of adequate price competition, because those benefits are not affected by the requirement for separate hourly rates. The rationale is also not based on a need to ensure the subcontract labor meets the qualifications for the labor categories specified in the contract.

2. *Comment:* One source stated that the requirement for separate fixed hourly rates for each category of labor performed by the contractor and each subcontractor will slow the acquisition process by requiring lengthy contract negotiations to establish separate hourly rates and contract modifications to add new subcontractors. In addition, the requirement will hinder contract performance, will tax DoD's acquisition workforce, and will likely prejudice qualified small and small disadvantaged businesses that only become known to the prime contractor after contract formation. Another source stated that the requirement for separate fixed hourly rates for each category of labor performed by the contractor and each subcontractor will negatively impact contractor invoicing. Hours will have to be billed separately for each subcontractor and the prime for each fund cite. As a result, contractor indirect rates will increase to absorb the additional administrative costs. In addition, the administrative time and expense required to modify the contract to add new subcontractors will be substantial.

DoD Response: The FAR authorizes separate fixed hourly rates for each category of labor performed by the contractor and each subcontractor to recognize there may be circumstances when separate rates are required to adequately protect the Government. As stated in the preamble to the interim rule, DoD believes it is in the best interest of the Department to require separate fixed hourly rates for each category of labor performed by the contractor and each subcontractor. When making that determination, DoD considered the potential administrative burden and costs that may result from the rule. In addition, the rule is not intended to prejudice small and small disadvantaged businesses. If additional subcontractors, including small and small disadvantaged businesses, are needed to perform on the contract after the initial contract award, the contract can be modified to add the hourly rates for the new subcontractors.

3. *Comment:* One source stated that the requirement for separate fixed hourly rates for each category of labor performed by the contractor and each subcontractor makes it difficult to evaluate competing offers during source selection. Offerors will propose separate hourly rates for the prime contractor and each subcontractor by labor category. Offerors will then apply those rates to the projected mix of labor (prime and/or subcontract) to determine the overall estimated price for each labor category. The Government will then use the average labor rate for the labor categories to evaluate competing offers. However, after contract award, the prime contractor can change the mix of labor performed by the prime and subcontractors for each labor category. As a result, the actual rates that will be paid for a labor category may be significantly different than the estimated rates used to evaluate the offer during source selection. The source also stated that the rule does not provide guidance on how to ensure the benefits of competition are maintained and whether cost or pricing data is required when new subcontractors are proposed. With blended fixed hourly rates, competition establishes the reasonableness of the fixed hourly rates, and those rates are used for payment regardless of whether the prime or any subcontractors perform the work. With the required separate fixed hourly rates for each category of labor performed by the contractor and each subcontractor, the benefits of competition may be lost, since the rates on the contract apply only to the labor identified during the proposal stage.

DoD Response: DoD acknowledges that certain pricing challenges will arise from the use of separate fixed hourly rates for each category of labor performed by the contractor and each subcontractor. DoD notes the pricing challenges do not originate with this rule. The FAR provisions also authorize the use of separate hourly rates for labor performed by the contractor and each subcontractor. While the DFARS rule requires reimbursement using a different rate for the prime versus the subcontractor, a similar difference existed prior to the rule. Under the prior FAR provisions, offerors could project a mix of labor (prime and subcontractor). After contract award, the prime could change the actual mix of labor, potentially resulting in significantly different costs than the estimated costs that were used to evaluate the offer during source selection. While there are pricing challenges associated with time-and-materials contracts, those challenges were not created by this rule.

4. *Comment:* One source stated that the rule could lead to the Government directing subcontract orders to reduce contract costs when subcontractors' fixed hourly rates are lower than the prime contractor's fixed hourly rates. If the Government directs subcontract orders, the prime contractor will lose its ability and responsibility to manage its resources and the Government may forfeit certain contract remedies.

DoD Response: In promulgating regulations, the assumption is that contracting personnel will follow the

regulations. Nothing in the rule encourages contracting officers to wrongly direct subcontract orders.

5. *Comment:* One source stated that some of the subcontractors under the prime contract may compete with the prime for other prime contracts. The prime contractor may gain a competitive advantage over these other contractors on future competitions, since the prime will have insight into the composition of their rates.

DoD Response: Nothing in the rule provides prime contractors insight into the composition of their subcontract rates. The prime contractor will bill for subcontract labor using its negotiated fixed hourly rates for the subcontractor.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD has prepared a final regulatory flexibility analysis consistent with 5 U.S.C. 604. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

This DFARS rule contains a substitute paragraph for use with the solicitation provision at FAR 52.216–29. The FAR provision contains three options for establishing fixed hourly rates on competitively awarded non-commercial time-and-materials and labor-hour contracts. The DFARS rule requires use of the FAR option that provides for the establishment of separate fixed hourly rates for each category of labor performed by the contractor and each subcontractor. The objective of the rule is to use the FAR option for establishing labor rates that is the most suitable for DoD contracts. The rule will apply to all entities interested in receiving DoD competitively awarded non-commercial time-and-materials and labor-hour contracts. The impact on small entities is unknown at this time.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Parts 216 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

PART 216—[AMENDED]

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 216 and 252, which was published at 71 FR 74469 on December 12, 2006, is adopted as a final rule without change.

[FR Doc. E7–17423 Filed 9–5–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 236

RIN 0750–AF41

Defense Federal Acquisition Regulation Supplement; Congressional Notification of Architect—Engineer Services/Military Family Housing Contracts (DFARS Case 2006–D015)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has adopted as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 1031(a)(37) of the National Defense Authorization Act for Fiscal Year 2004. Section 1031(a)(37) amended the requirements for submission of a notification to Congress before the award of a contract for architectural and engineering services or construction design in connection with military construction, military family housing, or restoration or replacement of damaged or destroyed facilities.

EFFECTIVE DATE: September 6, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Felisha Hitt, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0310; facsimile (703) 602–7887. Please cite DFARS Case 2006–D015.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 71 FR 58540 on October 4, 2006, to implement Section 1031(a)(37) of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136). Section 1031(a)(37) amended the requirements at 10 U.S.C. 2807, for submission of a notification to Congress before the award of a contract for architectural and engineering services or construction design in connection with military construction, military family housing, or restoration or replacement of damaged or destroyed facilities. The amendments increased the contract dollar threshold for submission from $500,000 to $1,000,000; and reduced the time period for submission, from 21 to 14 days before obligation of funds, when the notification is provided in electronic medium.

DoD received no comments on the interim rule. Therefore, DoD has adopted the interim rule as a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule relates to reporting requirements that are internal to the Government.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 236

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

PART 236—[AMENDED]

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR Part 236, which was published at 71 FR 58540 on October 4, 2006, is adopted as a final rule without change.

[FR Doc. E7–17427 Filed 9–5–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 237

RIN 0750–AF64

Defense Federal Acquisition Regulation Supplement; Security-Guard Functions (DFARS Case 2006–D050)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 333 of the National Defense Authorization Act for Fiscal Year 2007. Section 333 extends, through September 30, 2009, the period during which contractor performance of security-guard functions at military installations or facilities is authorized to fulfill additional requirements resulting from the terrorist attacks on the United States on September 11, 2001.

DATES: *Effective date:* September 6, 2007.

Comment date: Comments on the interim rule should be submitted to the address shown below on or before November 5, 2007, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2006–D050, using any of the following methods:

- *Federal eRulemaking Portal:http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: dfars@osd.mil.* Include DFARS Case 2006–D050 in the subject line of the message.
- *Fax:* (703) 602–7887.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Michael Benavides, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.
- *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Benavides, (703) 602–1302.

SUPPLEMENTARY INFORMATION:

A. Background

10 U.S.C. 2465 prohibits DoD from entering into contracts for the performance of firefighting or security-guard functions at military installations or facilities, unless an exception applies. Section 332 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107–314), Section 324 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–175), and Section 344 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163) have provided authority for DoD to waive the prohibition at 10 U.S.C. 2465, to fulfill additional requirements for security-guard functions at military installations or facilities resulting from the terrorist attacks on the United States on September 11, 2001.

Section 333 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364) extends this authority through September 30, 2009, provided the total number of personnel employed to perform such functions does not exceed specified limits. This interim rule amends DFARS 237.102–70 to reflect the provisions of Section 333 of Public Law 109–364.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Although the rule may provide opportunities for small business concerns to receive contracts for the performance of security-guard functions at military installations or facilities, the economic impact is not expected to be substantial. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2006–D050.

C. Paperwork Reduction Act

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

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. This interim rule implements Section 333 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364). Section 333 extends, through September 30, 2009, the period during which contractor performance of security-guard functions at military installations or facilities is authorized to fulfill additional requirements resulting from the terrorist attacks on the United States on September 11, 2001. Section 333 also places limitations on the total number of personnel that may be employed under this authority during fiscal years 2007 through 2009. Comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 237

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 237 is amended as follows:

PART 237—SERVICE CONTRACTING

■ 1. The authority citation for 48 CFR part 237 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

■ 2. Section 237.102–70 is amended by revising paragraph (d) to read as follows:

237.102–70 Prohibition on contracting for firefighting or security-guard functions.

* * * * *

(d)(1) Under Section 332 of Public Law 107–314, as amended by Section 333 of Public Law 109–364, this prohibition does not apply to any contract that is entered into for any increased performance of security-guard functions at a military installation or facility undertaken in response to the terrorist attacks on the United States on September 11, 2001, if—

(i) Without the contract, members of the Armed Forces are or would be used to perform the increased security-guard functions;

(ii) The agency has determined that—

(A) Recruiting and training standards for the personnel who are to perform the security-guard functions are comparable to the recruiting and training standards for DoD personnel who perform the same security-guard functions;

(B) Contractor personnel performing such functions will be effectively supervised, reviewed, and evaluated; and

(C) Performance of such functions will not result in a reduction in the security of the installation or facility;

(iii) Contract performance will not extend beyond September 30, 2009; and

(iv) The total number of personnel employed to perform security-guard functions under all contracts entered into pursuant to this authority does not exceed—

(A) For fiscal year 2007, the total number of such personnel employed under such contracts on October 1, 2006;

(B) For fiscal year 2008, the number equal to 90 percent of the total number of such personnel employed under such contracts on October 1, 2006; and

(C) For fiscal year 2009, the number equal to 80 percent of the total number of such personnel employed under such contracts on October 1, 2006.

(2) Follow the procedures at PGI 237.102–70(d) to ensure that the personnel limitations specified in paragraph (d)(1)(iv) of this subsection are not exceeded.

[FR Doc. E7–17436 Filed 9–5–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 237

RIN 0750–AF69

Defense Federal Acquisition Regulation Supplement; Limitation on Contracts for the Acquisition of Certain Services (DFARS Case 2006–D054)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 832 of the National Defense Authorization Act for Fiscal Year 2007. Section 832 prohibits DoD from entering into a service contract to acquire a military flight simulator unless certain waiver criteria apply.

EFFECTIVE DATE: September 6, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Benavides, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–1302; facsimile (703) 602–7887. Please cite DFARS Case 2006–D054.

SUPPLEMENTARY INFORMATION:

A. Background

Section 832 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364) prohibits DoD from entering into a service contract to acquire a military flight simulator, unless the Secretary of Defense determines that a waiver is necessary for national security purposes and provides an economic analysis to the congressional defense committees at least 30 days before the waiver takes effect. This final rule adds text at DFARS 237.102–71 to reflect the provisions of Section 832 of Public Law 109–364.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment under 41 U.S.C. 418b is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2006–D054.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 237

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 237 is amended as follows:

PART 237—SERVICE CONTRACTING

■ 1. The authority citation for 48 CFR part 237 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

■ 2. Section 237.102–71 is added to read as follows:

237.102–71 Limitation on service contracts for military flight simulators.

(a) *Definitions.* As used in this subsection—

(1) *Military flight simulator* means any system to simulate the form, fit, and function of a military aircraft that has no commonly available commercial variant.

(2) *Service contract* means any contract entered into by DoD, the principal purpose of which is to furnish services in the United States through the use of service employees as defined in 41 U.S.C. 357(b).

(b) Under Section 832 of Public Law 109–364, DoD is prohibited from entering into a service contract to acquire a military flight simulator. However, the Secretary of Defense may waive this prohibition with respect to a contract, if the Secretary—

(1) Determines that a waiver is necessary for national security purposes; and

(2) Provides an economic analysis to the congressional defense committees at least 30 days before the waiver takes effect. This economic analysis shall include, at a minimum—

(i) A clear explanation of the need for the contract; and

(ii) An examination of at least two alternatives for fulfilling the requirements that the contract is meant to fulfill, including the following with respect to each alternative:

(A) A rationale for including the alternative.

(B) A cost estimate of the alternative and an analysis of the quality of each cost estimate.

(C) A discussion of the benefits to be realized from the alternative.

(D) A best value determination of each alternative and a detailed explanation of the life-cycle cost calculations used in the determination.

(c) When reviewing requirements or participating in acquisition planning that would result in a military department or defense agency acquiring a military flight simulator, the contracting officer shall notify the program officials of the prohibition in paragraph (b) of this subsection. If the program officials decide to request a waiver from the Secretary of Defense under paragraph (b) of this subsection, the contracting officer shall follow the procedures at PGI 237.102–71.

[FR Doc. E7–17425 Filed 9–5–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

RIN 0750–AF58

Defense Federal Acquisition Regulation Supplement; Taxpayer Identification Numbers (DFARS Case 2006–D037)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to address requirements for validation of Taxpayer Identification Numbers as part of the Central Contractor Registration process. The DFARS changes are consistent with changes made to the Federal Acquisition Regulation.

EFFECTIVE DATE: September 6, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Felisha Hitt, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0310; facsimile (703) 602–7887. Please cite DFARS Case 2006–D037.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS 252.204–7004 contains a substitute paragraph for use with the clause at FAR 52.204–7, Central Contractor Registration, to address DoD-unique requirements relating to contractor registration in the Central Contractor Registration (CCR) database. This final rule amends DFARS 252.204–7004 for consistency with changes made to FAR 52.204–7 in Item I of Federal Acquisition Circular 2005–10, published at 71 FR 36923 on June 28, 2006. The changes address requirements for the Government to validate a contractor's Taxpayer Identification Number, and for the contractor to consent to this validation, as part of the CCR registration process.

DoD published a proposed rule at 71 FR 2645 on January 22, 2007. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule relates to an administrative requirement for TIN validation, which is performed by the Government. Contractors need only provide consent for TIN validation as part of the CCR registration process.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

■ 2. Section 252.204–7004 is amended as follows:

■ a. By revising the section heading, clause title, and clause date; and

■ b. In paragraph (a), by revising the definition of ''Registered in the CCR database'' to read as follows:

252.204–7004 Alternate A, Central Contractor Registration.

ALTERNATE A, CENTRAL CONTRACTOR REGISTRATION (SEP 2007)

* * * * *

(a) * * *

''Registered in the CCR database'' means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database;

(2) The Contractor's CAGE code is in the CCR database; and

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service, and has marked the records ''Active.'' The Contractor will be required to provide consent for TIN validation to the Government as part of the CCR registration process.

[FR Doc. E7–17433 Filed 9–5–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 209, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, 240, 241, and 244

[Docket No. FRA–2004–17529; Notice No. 5]

RIN 2130–AB66

Inflation Adjustment of Ordinary Maximum Civil Monetary Penalty for a Violation of a Federal Railroad Safety Law or Federal Railroad Administration Safety Regulation

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: To comply with the Federal Civil Penalties Inflation Adjustment Act of 1990, FRA is adjusting the ordinary maximum penalty that it will apply when assessing a civil penalty for a violation of railroad safety statutes and regulations under its authority. In particular, FRA is increasing the ordinary maximum civil penalty from $11,000 to $16,000.

EFFECTIVE DATE: October 9, 2007.

FOR FURTHER INFORMATION CONTACT: Sarah Grimmer, Trial Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW., Mail Stop 10, Washington, DC 20590 (telephone 202–493–6390), *sarah.grimmer@dot.gov.*

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Act) requires that an agency adjust by regulation each maximum civil monetary penalty (CMP), or range of minimum and maximum CMPs, within that agency's jurisdiction by October 23, 1996 and adjust those penalty amounts once every four years thereafter to reflect inflation. Public Law 101–410, 104 Stat. 890, 28 U.S.C. 2461, note, as amended by Section 31001(s)(1) of the Debt Collection Improvement Act of 1996, Public Law 104–134, 110 Stat. 1321–373, April 26, 1996. Congress recognized the important role that CMPs play in deterring violations of Federal law and regulations and realized that inflation has diminished the impact of these penalties. In the Inflation Act,

Congress found a way to counter the effect that inflation has had on the CMPs by having the agencies charged with enforcement responsibility administratively adjust the CMPs.

Calculation of the Adjustment

Under the Inflation Act, the inflation adjustment is to be calculated by increasing the maximum CMP, or the range of minimum and maximum CMPs, by the percentage that the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment (here, June 2006) exceeds the CPI for the month of June of the last calendar year in which the amount of such penalty was last set or adjusted (here, June 1998 for the ordinary maximum). The Inflation Act also specifies that the amount of the adjustment must be rounded to the nearest multiple of $100 for a penalty between $100 and $1,000, or to the nearest multiple of $5,000 for a penalty of more than $10,000 and less than or equal to $100,000. The first adjustment may not exceed an increase of ten percent. FRA utilized Bureau of Labor Statistics data to calculate adjusted CMP amounts.

FRA is authorized as the delegate of the Secretary of Transportation to enforce the Federal railroad safety statutes and regulations, including the civil penalty provisions at 49 U.S.C. ch. 213. 49 CFR 1.49; 49 U.S.C. ch. 201–213. FRA currently has 28 regulations that contain provisions that reference its authority to impose civil penalties if a person violates any requirement in the pertinent portion of a statute or the Code of Federal Regulations. In this final rule, FRA is amending each of those separate regulatory provisions and the corresponding footnotes in each Schedule of Civil Penalties to raise the ordinary maximum CMP to $16,000.

With the exception of the penalties relating to the hours of service laws (49 U.S.C. ch. 211), the ordinary maximum CMP for a violation of the rail safety laws and regulations was established by the Rail Safety Improvement Act of 1988, which set a $10,000 limit for a CMP imposed for any ordinary violation, and a $20,000 limit for a grossly negligent violation or a pattern of repeated violations that has created an imminent hazard of death or injury or caused death or injury (aggravated violations). In 1998, after applying the adjustment calculation in the Inflation Act, FRA determined that the ordinary maximum CMP for any single violation needed to be increased to $11,000 and that the maximum CMP for aggravated violations needed to be increased to $22,000. FRA amended each of its regulations by final rule to reflect the increased CMPs. 63 FR 11618.

The Rail Safety Enforcement and Review Act (RSERA) in 1992 increased the range of the minimum and maximum civil penalties for a violation of the hours of service laws, making these minimum and maximum penalty amounts uniform with those of FRA's other regulatory provisions. Before enactment of RSERA, the penalty was ''up to $1,000 per violation.'' RSERA increased the minimum civil penalty for an hours of service violation to $500, the ordinary maximum civil penalty to $10,000, and the aggravated maximum to $20,000. By applying the same adjustment calculation using the 1992 CPI, the ordinary and aggravated maximum penalties for violations of the hours of service laws were raised to equal those of the other rail safety laws and regulations: $11,000 and $22,000. In 1998, FRA had applied the adjustment calculation in the Inflation Act to the minimum CMP and had determined that it would not need to be increased. In 2004, FRA by applying the adjustment calculation using the June 2003 CPI determined that the minimum CMP should be increased from $500 to $550. FRA also determined in 2004 under the same rationale that the aggravated maximum CMP should be increased from $22,000 to $27,000. 69 FR 30592.

Calculations To Determine Civil Monetary Penalty Updates for 2007

1. Minimum CMP

As required, this year, FRA reevaluated the minimum CMP and concluded that it should remain at $550, as the next calculations show. The June 2006 CPI of 607.8 divided by the CPI for June 2004 of 568.2 (since the last update was in 2004) equals an inflation factor of 1.06969; $550 times 1.06969 equals $588. The raw inflation adjustment amount of $38 is rounded to the nearest multiple of 100, or zero. The inflation-adjusted minimum penalty is $550 plus zero, or $550. See appendix.

2. Aggravated Maximum CMP

FRA also reevaluated the CMP for an aggravated violation and determined that it should remain at $27,000, as the following calculations show. The June 2006 CPI of 607.8 divided by the CPI for June 2004 of 568.2 (since the last update was in 2004) equals an inflation factor of 1.06969; $27,000 times 1.06969 equals $28,882. The raw inflation adjustment amount of $1,882 is rounded to the nearest multiple of $5,000, which is zero. The rounded raw inflation adjustment amount is zero. The inflation-adjusted aggravated maximum penalty remains $27,000.

3. Ordinary Maximum CMP

Applying the adjustment calculation using the June 2006 CPI, FRA has determined that the ordinary maximum CMP should be increased from $11,000 to $16,000, as the next calculations show.

The June 2006 CPI of 607.8 divided by the June 1998 CPI of 488.2 (since the last update was in 1998) equals an inflation factor of 1.24498; $11,000 times 1.24498 equals $13,695, or a raw inflation adjustment amount of $2,695, which is rounded up to the nearest multiple of $5,000, which is $5,000. Therefore, the ordinary maximum CMP should be increased by $5,000, or to $16,000. Because this is the second time that the ordinary maximum CMP has been adjusted under the Act, the ten-percent cap on the increase does not apply. This new FRA ordinary maximum penalty will apply to violations that occur on or after October 9, 2007.

Public Participation

FRA is proceeding to a final rule without providing a notice of proposed rulemaking or an opportunity for public comment. The adjustments required by the Act are ministerial acts over which FRA has no discretion, making public comment unnecessary. FRA is issuing these amendments as a final rule applicable to all future rail safety civil penalty cases under its authority.

Regulatory Impact

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rule has been evaluated in accordance with existing policies and procedures. It is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034) because it is limited to a ministerial act on which the agency has no discretion. The economic impact of the final rule is minimal to the extent that preparation of a regulatory evaluation is not warranted.

B. Regulatory Flexibility Determination

FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Although this rule will apply to railroads and others that are considered small entities, there is no economic impact on any person who complies

with the Federal railroad safety laws and the regulations and orders issued under those laws.

C. Federalism

This final rule will not have a substantial effect on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Thus, in accordance with Executive Order 13132, preparation of a Federalism assessment is not warranted.

D. Paperwork Reduction Act

There are no new information collection requirements in this final rule.

E. Compliance With the Unfunded Mandates Reform Act of 1995

The final rule issued today will not result in the expenditure, in the aggregate, of $128,100,000 or more in any one year by State, local, or Indian Tribal governments, or the private sector, and thus preparation of a statement is not required.

F. Environmental Assessment

There are no significant environmental impacts associated with this final rule.

G. Energy Impact

According to definitions set forth in Executive Order 13211, there will be no significant energy action as a result of the issuance of this final rule.

List of Subjects in 49 CFR Parts 209, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, 240, 241, and 244

Railroad safety, Penalties.

The Final Rule

■ In consideration of the foregoing, parts 209, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, 240, 241, and 244, of subtitle B, chapter II of title 49 of the Code of Federal Regulations are amended as follows:

PART 209—[AMENDED]

■ 1. The authority citation for part 209 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20111, 20112, 20114; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 209.409 [Amended]

■ 2. Section 209.409 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

Appendix A to Part 209—[Amended]

■ 3. Appendix A to part 209 is amended by removing the numerical amount ''$11,000'' in the third paragraph below the heading ''Penalty Schedules; Assessment of Maximum Penalties,'' and replacing it with the numerical amount ''$16,000''.

PART 213—[AMENDED]

■ 4. The authority citation for part 213 continues to read as follows:

Authority: 49 U.S.C. 20102–20114 and 20142; 28 U.S.C. 2461, note; and 49 CFR 1.49(m).

§ 213.15 [Amended]

■ 5. Paragraph (a) of § 213.15 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 214—[AMENDED]

■ 6. The authority citation for part 214 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 214.5 [Amended]

■ 7. Section 214.5 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 215—[AMENDED]

■ 8. The authority citation for part 215 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 215.7 [Amended]

■ 9. Section 215.7 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

Appendix B to Part 215—[Amended]

■ 10. Footnote 1 of Appendix B to Part 215—Schedule of Civil Penalties, is amended by removing the numerical amount ''$10,000'' and adding in its place the numerical amount ''16,000''.

PART 216—[AMENDED]

■ 11. The authority citation for part 216 continues to read as follows:

Authority: 49 U.S.C. 20102–20104, 20107, 20111, 20133, 20701–20702, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 216.7 [Amended]

■ 12. Section 216.7 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 217—[AMENDED]

■ 13. The authority citation for part 217 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 217.5 [Amended]

■ 14. Section 217.5 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 218—[AMENDED]

■ 15. The authority citation for part 218 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 218.9 [Amended]

■ 16. Section 218.9 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

Appendix A to Part 218 [Amended]

■ 17. Footnote 1 of Appendix A to Part 218 is amended by removing the numerical amount ''$22,000'' and adding in its place the numerical amount ''$27,000''.

PART 219—[AMENDED]

■ 18. The authority citation for part 219 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20140, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49(m).

§ 219.9 [Amended]

■ 19. Paragraph (a) of § 219.9 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 220—[AMENDED]

■ 20. The authority citation for part 220 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20107, 21301–21302, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 220.7 [Amended]

■ 21. Section 220.7 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 221—[AMENDED]

■ 22. The authority citation for part 221 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 221.7 [Amended]

■ 23. Section 221.7 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 222—[AMENDED]

■ 24. The authority citation for part 222 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20153, 21301, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 222.11 [Amended]

■ 25. Section 222.11 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 223—[AMENDED]

■ 26. The authority citation for part 223 continues to read as follows:

Authority: 49 U.S.C. 20102–03, 20133, 20701–20702, 21301–02, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 223.7 [Amended]

■ 27. Section 223.7 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 224—[AMENDED]

■ 28. The authority citation for part 224 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20148 and 21301; 28 U.S.C. 2461; and 49 CFR 1.49.

§ 224.11 [Amended]

■ 29. Section 224.11 is amended by removing the amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 225—[AMENDED]

■ 30. The authority citation for part 225 continues to read as follows:

Authority: 49 U.S.C. 103, 322(a), 20103, 20107, 20901–02, 21301, 21302, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 225.29 [Amended]

■ 31. Section 225.29 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 228—[AMENDED]

■ 32. The authority citation for part 228 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 21101–21108; 28 U.S.C. 2461, note and 49 CFR 1.49.

§ 228.21 [Amended]

■ 33. Section 228.21 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

Appendix A to Part 228—Requirements of the Hours of Service Act: Statement of Agency Policy and Interpretation

■ 34. In appendix A to part 228, the ninth paragraph below the heading ''General Provisions,'' which is entitled ''Penalty'' is amended by adding the following at the end of the paragraph:

* * * * *

Penalty. * * * Effective October 9, 2007, the ordinary maximum penalty of $11,000 was raised to $16,000 as required under the law; however, the minimum penalty and the maximum penalty for a grossly negligent violation did not need to be adjusted.

* * * * *

PART 229—[AMENDED]

■ 35. The authority citation for part 229 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20107, 20133, 20137–20138, 20143, 20701–20703, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.49 (c), (m).

§ 229.7 [Amended]

■ 36. Paragraph (b) of § 229.7 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

Appendix B to Part 229—[Amended]

■ 37. Footnote 1 to Appendix B of Part 229 is amended by removing the numerical amount of ''$10,000'' and adding in its place the numerical amount ''$16,000''.

PART 230—[AMENDED]

■ 38. The authority citation for part 230 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20702; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 230.4 [Amended]

■ 39. Paragraph (a) of § 230.4 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 231—[AMENDED]

■ 40. The authority citation for part 231 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20107, 20131, 20301–20303, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 231.0 [Amended]

■ 41. Paragraph (f) of § 231.0 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 232—[AMENDED]

■ 42. The authority citation for part 232 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20107, 20133, 20141, 20301–20303, 20306, 21301–21302, 21304; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 232.11 [Amended]

■ 43. Paragraph (a) of § 232.11 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

Appendix A To Part 232—[AMENDED]

■ 44. Footnote 1 to Appendix A of Part 232 is amended by removing the numerical amount of ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 233—[AMENDED]

■ 45. The authority citation for part 233 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 233.11 [Amended]

■ 46. Section 233.11 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 234—[AMENDED]

■ 47. The authority citation for part 234 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 234.6 [Amended]

■ 48. Paragraph (a) of § 234.6 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 235—[AMENDED]

■ 49. The authority citation for part 235 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 235.9 [Amended]

■ 50. Section 235.9 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 236—[AMENDED]

■ 51. The authority citation for part 236 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note and 49 CFR 1.49.

§ 236.0 [Amended]

■ 52. Paragraph (f) of § 236.0 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 238—[AMENDED]

■ 53. The authority citation for part 238 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20133, 20141, 20302–20303, 20306, 20701–20702, 21301–21302, 21304; 28 U.S.C. 2461, note; 49 CFR 1.49.

§ 238.11 [Amended]

■ 54. Paragraph (a) of § 238.11 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

Appendix A to Part 238—[AMENDED]

■ 55. Footnote 1 to Appendix A of part 238 is amended by removing the numerical amount of ''$10,000'' and adding in its place the numerical amount ''$16,000''.

PART 239—[AMENDED]

■ 56. The authority citation for part 239 continues to read as follows:

Authority: 49 U.S.C. 20102–20103, 20105–20114, 20133, 21301, 21304, and 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49(c), (g), (m).

§ 239.11 [Amended]

■ 57. Section 239.11 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 240—[AMENDED]

■ 58. The authority citation for part 240 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 240.11 [Amended]

■ 59. Paragraph (a) of § 240.11 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 241—[Amended]

■ 60. The authority citation for part 241 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 21301, 21304, 21311; 28 U.S.C. 2461, note; 49 CFR 1.49.

§ 241.15 [Amended]

■ 61. Paragraph (a) of § 241.15 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

PART 244—[Amended]

■ 62. The authority citation for part 244 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 21301; 5 U.S.C. 553 and 559; 28 U.S.C. 2461, note; and 49 CFR 1.49.

§ 244.5 [Amended]

■ 63. Paragraph (a) of § 244.5 is amended by removing the numerical amount ''$11,000'' and adding in its place the numerical amount ''$16,000''.

Joseph H. Boardman,

Administrator, Federal Railroad Administration.

Appendix: Step by Step Calculations To Determine Civil Monetary Penalty Updates: 2007

Note: This appendix will not appear in the Code of Federal Regulations.

Step by Step Calculations To Determine Civil Monetary Penalty Updates: 2007

These calculations follow DOT and Government Accounting Office guidance to determine if the CMPs should be updated according to the Inflation Act. (Sources for guidance: (1) GAO attachment to Memorandum with subject, ''Annual Review of Department of Transportation's (DOT) Civil Penalties Inflation Adjustment'' dated July 10, 2003; (2) policy paper entitled ''Federal Civil Penalties Inflation Adjustment Act of 1990.''). Overall, there is no change in the minimum ($550) and aggravated maximum penalties ($27,000) for 2007, but the ordinary maximum rises from $11,000 to $16,000 under the Inflation Act.

Minimum

The current minimum CMP is $550, last updated on May 28, 2004. See 69 FR 30592.

Step 1: Find the Consumer Price Index (CPI). (BLS, 1967 Base, U.S. City Avg.)

The CPI for June of the preceding year, i.e., CPI for June 2006 = 607.8

The CPI for June of the year the CMP was last set or adjusted under the Inflation Act, i.e., CPI for June 2004 = 568.2

Step 2: Calculate the Cost of Living Adjustment (COLA), or the Inflation Factor.

$$\text{COLA} = \frac{\text{CPI for June 2006}}{\text{CPI for June 2004}} = \frac{607.8}{568.2} = 1.06969$$

Step 3: Find the Raw Inflation Adjustment or Inflation Adjustment Before Rounding.

Raw Inflation Adjustment = CMP × COLA = $550 × 1.06969 = $588.33 ≈ $588

Step 4: Round the Raw Inflation Adjustment Amount.

Recall that the increase in the CMP is rounded, according to the rounding rules. Increase = Raw Inflation Adjustment—Original CMP = $588 − $550 = $38

Use the following rounding rule: ''If the current unadjusted penalty is greater than $100 and less than or equal to $1,000, round the increase to the nearest multiple of $100.'' (Federal Civil Penalties Inflation Adjustment Act of 1990, p. 4)

The nearest multiple of $100 is $0.

Rounded, the $38 increase = $0

Step 5: Find the Inflation Adjusted Penalty After Rounding.

CMP after rounding = Original CMP + Rounded Increase = $550 + $0 = $550

Step 6: Apply a 10% Ceiling if Necessary.

As the minimum CMP has been adjusted previously according to the Inflation Act, the 10% cap for first time adjustments does not apply.

Step 7: Determine New Penalty

The new minimum CMP = $550

For 2007, the minimum CMP stays the same.

Ordinary Maximum

The current ordinary maximum CMP is $11,000, last updated on March 10, 1998. See 63 FR 11619.

Step 1: Find the Consumer Price Index (CPI).

The CPI for June of the preceding year, i.e., CPI for June 2006 = 607.8

The CPI for June of the year the CMP was last set or adjusted under the Inflation Act, i.e., CPI for June 1998 = 488.2

Step 2: Calculate the Cost of Living Adjustment (COLA), or the Inflation Factor.

$$\text{COLA} = \frac{\text{CPI for June 2006}}{\text{CPI for June 1998}} = \frac{607.8}{488.2} = 1.24498$$

Step 3: Find the Raw Inflation Adjustment or Inflation Adjustment Before Rounding.
Raw Inflation Adjustment = CMP × COLA
Raw Inflation Adjustment = $11,000 × 1.24498 = $13,694.78 ≈ $13,695

Step 4: Round the Raw Inflation Adjustment Amount.
Recall that the increase in the CMP is rounded, according to the rounding rules.
Increase = Raw Inflation Adjustment − Original CMP
Increase = $13,695 − $11,000 = $2,695
Use the following rounding rule: ''If the current unadjusted penalty is greater than $10,000 and less than or equal to $100,000, round the increase to the nearest multiple of $5,000.'' (Federal Civil Penalties Inflation Adjustment Act of 1990, p. 4)
The nearest multiple of $5,000 is $5,000.
Rounded, the $2,695 increase = $5,000

Step 5: Find the Inflation Adjusted Penalty After Rounding.
CMP after rounding = Original CMP + Rounded Increase
CMP after rounding = $11,000 + $5,000 = $16,000

Step 6: Apply a 10% Ceiling if Necessary.
As the ordinary maximum CMP has been adjusted previously according to the Inflation Act, the 10% cap for first time adjustments does not apply.

Step 7: Determine New Penalty
The new ordinary maximum CMP = $16,000
For 2007, the ordinary maximum CMP rises from $11,000 to $16,000.

Aggravated Maximum

The current aggravated maximum CMP is $27,000, last updated on May 28, 2004. See 69 FR 30592.

Step 1: Find the Consumer Price Index (CPI).
The CPI for June of the preceding year, i.e., CPI for June 2006 = 607.8
The CPI for June of the year the CMP was last set or adjusted under the Inflation Act, i.e., CPI for June 2004 = 568.2

Step 2: Calculate the Cost of Living Adjustment (COLA), or the Inflation Factor.

$$\text{COLA} = \frac{\text{CPI for June 2006}}{\text{CPI for June 2004}} = \frac{607.8}{568.2} = 1.06969$$

Step 3: Find the Raw Inflation Adjustment or Inflation Adjustment Before Rounding.
Raw Inflation Adjustment = CMP × COLA
Raw Inflation Adjustment = $27,000 × 1.06969 = $28,881.63 ≈ $28,882

Step 4: Round the Raw Inflation Adjustment Amount.
Recall that the increase in the CMP is rounded, according to the rounding rules.
Increase = Raw Inflation Adjustment − Original CMP
Increase = $28,882 − $27,000 = $1,882
Use the following rounding rule: ''If the current unadjusted penalty is greater than $10,000 and less than or equal to $100,000, round the increase to the nearest multiple of $5,000.'' (Federal Civil Penalties Inflation Adjustment Act of 1990, p. 4)
The nearest multiple of $5,000 is $0.
Rounded, the $1,882 increase = $0

Step 5: Find the Inflation Adjusted Penalty After Rounding.
CMP after rounding = Original CMP + Rounded Increase
CMP after rounding = $27,000 + $0 = $27,000

Step 6: Apply a 10% Ceiling if Necessary.
As the aggravated maximum CMP has been adjusted previously according to the Inflation Act, the 10% cap for first time adjustments does not apply.

Step 7: Determine New Penalty
The new aggravated maximum CMP = $27,000
For 2007, the aggravated maximum CMP stays the same.

[FR Doc. E7–17170 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–06–P

Proposed Rules

Federal Register
Vol. 72, No. 172
Thursday, September 6, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 591

RIN 3206–AL28

Nonforeign Area Cost-of-Living Allowance Rates; Puerto Rico and Hawaii County, HI

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing to change the cost-of-living allowance (COLA) rates received by certain white-collar Federal and U.S. Postal Service employees in Puerto Rico and Hawaii County, HI. The proposed rate changes are the result of interim adjustments OPM calculated based on relative Consumer Price Index differences between the cost-of-living allowance areas and the Washington, DC, area. OPM is also proposing an additional one-time adjustment to the Puerto Rico COLA rate based on the impact of the new sales tax in Puerto Rico.

DATES: We will consider comments received on or before November 5, 2007.

ADDRESSES: Send or deliver comments to Charles D. Grimes III, Deputy Associate Director for Performance Management and Pay Systems, Strategic Human Resources Policy Division, Office of Personnel Management, Room 7300B, 1900 E Street, NW., Washington, DC 20415–8200; fax: (202) 606–4264; or e-mail: *COLA@opm.gov*.

FOR FURTHER INFORMATION CONTACT: J. Stanley Austin, (202) 606–2838; fax: (202) 606–4264; or e-mail: *COLA@opm.gov*.

SUPPLEMENTARY INFORMATION: Section 5941 of title 5, United States Code, authorizes Federal agencies to pay cost-of-living allowances (COLAs) to white-collar Federal and U.S. Postal Service employees stationed in Alaska, Hawaii, Guam and the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands (USVI). Executive Order 10000, as amended, delegates to the Office of Personnel Management (OPM) the authority to administer nonforeign area COLAs and prescribes certain operational features of the program. OPM conducts living-cost surveys in each allowance area and in the Washington, DC, area to determine whether, and to what degree, COLA area living costs are higher than those in the DC area. OPM sets the COLA rate for each area based on the results of these surveys.

As required by section 591.223 of title 5, Code of Federal Regulations, OPM conducts COLA surveys once every 3 years on a rotating basis. For areas not surveyed during a particular year, OPM adjusts COLA rates by the relative change in the Consumer Price Index (CPI) for the COLA area compared with the Washington, DC, area. (See 5 CFR 591.224–591.226.) OPM adopted these regulations pursuant to the stipulation for settlement in *Caraballo et al.* v. *United States*, No. 1997–0027 (D.V.I.), August 17, 2000. *Caraballo* was a class-action lawsuit which resulted in many changes in the COLA methodology and regulations.

OPM computed interim adjustments based on the relative change in the CPI for the Pacific and Caribbean COLA areas. A separate notice on the calculation of these interim adjustments accompanies this proposed rule. The interim adjustments indicate that, except for Hawaii County and Puerto Rico, the COLA rates for the Pacific and Caribbean COLA areas are currently set at the appropriate levels. For Hawaii County, the adjustments indicate that the COLA rate should be increased from 17 percent to 18 percent. For Puerto Rico, the adjustments indicate the COLA rate should be increased from 10.5 percent to 11 percent. This increase in Puerto Rico supersedes the 1-percent reduction proposed by OPM on October 27, 2006, at 71 FR 63176, based on the 2005 survey results.

Puerto Rico Sales Tax Adjustment

On July 4, 2006, the Puerto Rico government enacted the Tax Justice Act of 2006 (Act No. 117, HB 2193), which established a new Commonwealth sales and use tax of 5.5 percent and authorized an additional municipal sales and use tax of up to 1.5 percent. To measure the impact of the new sales tax on living costs in Puerto Rico, we applied the sales tax to covered items priced in OPM's 2005 Puerto Rico COLA survey. (The law exempted many items from coverage; e.g., most grocery items, cars, rent, prescription drugs, many professional services, health insurance, and school tuition.) We then recalculated the Puerto Rico price index incorporating the sales tax. The index increased by 1.9 points to 112.94, which translates to a COLA rate of 13 percent. Therefore, to account for this additional cost to Federal employees in Puerto Rico, we are proposing to increase the Puerto Rico COLA rate to 13 percent.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 591

Government employees, Travel and transportation expenses, Wages.

Office Of Personnel Management.

Linda M. Springer,

Director.

Accordingly, OPM proposes to amend subpart B of 5 CFR part 591 as follows:

PART 591—ALLOWANCES AND DIFFERENTIALS

Subpart B—Cost-of-Living Allowance and Post Differential—Nonforeign Areas

1. The authority citation for subpart B of 5 CFR part 591 continues to read as follows:

Authority: 5 U.S.C. 5941; E.O. 10000, 3 CFR, 1943–1948 Comp., p. 792; and E.O. 12510, 3 CFR, 1985 Comp., p. 338.

2. Revise appendix A of subpart B to read as follows:

Appendix A to Subpart B of Part 591—Places and Rates at Which Allowances Are Paid

This appendix lists the places approved for a cost-of-living allowance and shows the authorized allowance rate for each area. The allowance rate shown is paid as a percentage of an employee's rate of basic pay. The rates are subject to change based on the results of future surveys.

Geographic coverage	Allowance rate (percent)
State of Alaska:	
City of Anchorage and 80-kilometer (50-mile) radius by road	24
City of Fairbanks and 80-kilometer (50-mile) radius by road	24
City of Juneau and 80-kilometer (50-mile) radius by road	24
Rest of the State	25
State of Hawaii:	
City and County of Honolulu	25
Hawaii County, Hawaii	18
County of Kauai	25
County of Maui and County of Kalawao	25
Territory of Guam and Commonwealth of the Northern Mariana Islands	25
Commonwealth of Puerto Rico	13
U.S. Virgin Islands	25

[FR Doc. E7–17638 Filed 9–5–07; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29116; Directorate Identifier 2007–NM–064–AD]

RIN 2120–AA64

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

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Boeing Model 737–600, –700, –700C, –800, and –900 series airplanes. This proposed AD would require a one-time inspection to determine the material of the forward and aft gray water drain masts. For airplanes having composite gray water drain masts, this proposed AD would also require installation of a copper bonding jumper between a ground and the clamp on the tube of the forward and aft gray water composite drain masts. This proposed AD results from a report of charred insulation blankets and burned wires around the forward gray water composite drain mast found during an inspection of the forward cargo compartment on a Model 767–300F airplane. We are proposing this AD to prevent a fire near a composite drain mast and possible disruption of the electrical power system caused by a lightning strike on a composite drain mast, which could result in the loss of several functions essential for safe flight.

DATES: We must receive comments on this proposed AD by October 22, 2007.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Marcia Smith, 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) 917–6484; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2007–29116; Directorate Identifier 2007–NM–064–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov*.

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Operations office (telephone (800) 647–5527) is located on the ground floor of the West Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

We have received a report indicating that, during an inspection of the forward cargo compartment on a Model 767–300F airplane, an operator found charred insulation blankets and burned wires around the forward gray water composite drain mast. Additional charring on the insulation blankets was noticed several feet away along the routing of the drain mast's ground wire and power wires. Analysis of the

damaged parts revealed that a lightning strike on the composite drain mast caused the damage to the wires and insulation blankets. This condition, if not corrected, could cause disruption of electrical power and fire and heat damage to equipment in the event of a lightning strike on the composite drain mast, which could result in the potential loss of several functions essential for safe flight.

A design review of the gray water composite drain mast installation on Model 737, 757, 767, and 777 airplanes revealed that the installation of a heavier bonding jumper is necessary to provide adequate lightning protection to the gray water composite drain mast installation. The subject area on Model 737–600, –700, –700C, –800, and –900 airplanes is almost identical to that on the affected Model 767–300F airplane. Therefore, Model 737–600, –700, –700C, –800, and –900 series airplanes might be subject to the unsafe condition revealed on the Model 767–300F airplane. We are currently considering additional rulemaking to address the identified unsafe condition on Model 757, 767, and 777 airplanes.

Relevant Service Information

We have reviewed Boeing Special Attention Service Bulletin 737–30–1056, dated February 28, 2007. The service bulletin describes procedures for installing a 135-ampere copper bonding jumper between a ground and the clamp on the tube of the forward and aft gray water composite drain mast.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

There are about 1,540 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection to determine gray water drain mast material.	1	$80	None	$80	420	$33,600.
Installation of bonding jumper.	Between 2 and 4 (depending on airplane configuration).	$80	Between $7 and $15, depending on kit.	Between $167 and $335.	Up to 420	Between $70,140 and $140,700.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket No. FAA–2007–29116; Directorate Identifier 2007–NM–064–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by October 22, 2007.

Affected ADs

(b) None.

Applicability

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

Unsafe Condition

(d) This AD results from a report of charred insulation blankets and burned wires around the forward gray water composite drain mast found during an inspection of the forward cargo compartment on a Model 767–300F airplane. We are issuing this AD to prevent a fire near a composite drain mast and possible disruption of the electrical power

system caused by a lightning strike on a composite drain mast, which could result in the loss of several functions essential for safe flight.

Compliance

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

Inspection To Determine Material of Gray Water Drain Masts

(f) Within 60 months after the effective date of this AD, inspect the forward and aft gray water drain masts to determine whether the drain masts are made of aluminum or composite. A review of airplane maintenance records is acceptable in lieu of this inspection if the material of the forward and aft gray water drain masts can be conclusively determined from that review.

(1) For any aluminum gray water drain mast identified during the inspection or records check required by paragraph (f) of this AD, no further action is required by this paragraph for that drain mast only.

(2) For any composite gray water drain mast identified during the inspection or records check required by paragraph (f) of this AD, do the actions specified in paragraph (g) of this AD.

Installation of Bonding Jumper

(g) For any composite gray water drain mast identified during the inspection or records check required by paragraph (f) of this AD: Within 60 months after the effective date of this AD, install a 135-ampere copper bonding jumper between a ground and the clamp on the tube of the gray water composite drain mast, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1056, dated February 28, 2007.

Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on August 28, 2007.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–17586 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–28601; Airspace Docket 07–AEA–02]

Proposed Establishment of Class D and E Airspace, Proposed Revision of Class E Airspace; Easton, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class D, E2 and E4 airspace and revise E5 airspace at Easton, MD. A federal contract tower with a weather reporting system is being constructed at Easton Airport/Newnam Field. Therefore, the airport will meet criteria for Class D, E2, and E4 surface area airspace. Class D surface area airspace and Class E4 airspace designed as an extension to Class D airspace is required when the control tower is open to contain Standard Instrument Approach Procedures (SIAPs) and other Instrument Flight Rules (IFR) operations at the airport. Class E2 surface area airspace is required when the control tower is closed to contain SIAPs and other IFR operations at the airport. This action would establish Class D and E2 airspace extending upward from the surface to and including 2,600 feet MSL within a 4-mile radius of the airport and Class E4 airspace extension that is 5.4 miles wide and extends 7.4 miles northeast of the Easton Non Directional Beacon (NDB). Additionally, a technical revision to Class E5 airspace is required as a result of a name change from the Easton Municipal Airport to Easton Airport/Newnam Field, which was effective May 25, 1993.

DATES: Comments must be received on or before October 22, 2007.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590; Telephone: 1–800–647–5527. You must identify the docket number FAA–2007–28601; Airspace Docket No. 07–AEA–02, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room C210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Mark D. Ward, Manager, System Support Group, Eastern Service Center, Federal Aviation Administration. P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5581.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2007–28601; Airspace Docket No. 07–AEA–02.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the **Federal Register** Web page at *http://www.gpoaccess.gov/fr/index.html*. Persons interested in being placed on mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of

Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 to establish Class D, E2, and E4 airspace and revise Class E5 airspace at Easton, MD. Class D and E2 Airspace Designations for Airspace Areas extending upward from the surface of the Earth, Class E4 Airspace Areas Designated as an Extension to a Class D Surface Area and Class E5 Airspace Areas extending upward from 700 feet ore more above the surface of the Earth are published in Paragraphs 5000, 6002, 6004 and 6005 respectively of FAA Order 7400.9P, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1 The Class D, E2, E4 and E5 airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AEA MD D Easton, MD [NEW]

Easton Airport/Newnam Field, MD
(Lat. 38°48′15″ N., long. 76°04′08″ W.)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4-mile radius of the Easton Airport/Newnam Field. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AEA MD E2 Easton, MD [NEW]

Easton Airport/Newman Field, MD
(Lat. 38°48′15″ N., long. 76°04′08″ W.)
Easton NDB
(Lat. 38°48′17″ N., long. 76°04′10″ W.)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4-mile radius of the Easton Airport/Newman Field and that airspace within 2.7 miles each side of the 038° bearing from the Easton NDB extending from the 4-mile radius of the Easton Airport/Newman Field to 7.4 miles northeast of the NDB. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 604 Class E Airspace Areas Designated as an Extension to a Class D Surface Area.

* * * * *

AEA MD E4 Easton, MD [NEW]

Easton Airport/Newman Field, MD
(Lat. 38°48′15″ N., long. 76°04′08″ W.)
Easton NDB
(Lat. 38°48′17″ N., long. 76°04′10″ W.)

That airspace extending upward from the surface within 2.7 miles each side of the 038° bearing from the Easton NDB extending from the 4-mile radius of the Easton Airport/Newman Field to 7.4 miles northeast of the NDB.

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 feet or More Above the Surface of the Earth.

* * * * *

AEA MD E5 Easton, MD [REVISED]

Easton Airport/Newman Field, MD
(Lat. 38°48′15″ N., long. 76°04′08″ W.)
Easton NDB
(Lat. 38°48′17″ N., long. 76°04′10″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Easton Airport/Newman Field and within 2.7 miles each side of the 038° bearing from the Easton NDB extending from the 6.7-mile radius to 7.4 miles northeast of the NDB.

Issued in College Park, Georgia, on August 8, 2007.

Kathy Kutch,

Acting Manager, System Support Group Eastern Service Center.

[FR Doc. 07–4330 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA–R01–OAR–2005–TR–0001; A–1–FRL–8463–2]

Approval and Promulgation of Air Quality Implementation Plans; Mohegan Tribe of Indians of Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a Tribal Implementation Plan submitted by the Mohegan Tribe of Indians of Connecticut. The TIP establishes an enforceable cap on nitrogen oxide emissions from stationary sources owned by the Mohegan Tribal Gaming Authority and located within the external boundaries of the Mohegan Reservation. This action is intended to help attain the National Ambient Air Quality Standards (NAAQS) for ground-level ozone. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before October 9, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2005–TR–0001 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: mcdonnell.ida@epa.gov.*
3. *Fax:* (617) 918–0653.
4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2005–TR–0001'', Dan Brown, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAP), Boston, MA 02114–2023.
5. *Hand Delivery or Courier:* Deliver your comments to: Dan Brown,

Manager, Air Permits, Toxics and Indoor Air Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAP), Boston, MA 02114–2023 Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2005–TR–0001. 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 through *http://www.regulations.gov,* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding legal holidays.

In addition to the publicly available docket materials available for inspection electronically in the Federal Docket Management System at *http://www.regulations.gov,* and the hard copy available at the Regional Office, which are identified in the **ADDRESSES** section of this **Federal Register**, copies of the Tribe's submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the Mohegan Tribe, Mohegan Environmental Protection Department, 49 Sandy Desert Road, Uncasville, CT 06382, telephone number (860) 862–6112.

FOR FURTHER INFORMATION CONTACT: Ida E. McDonnell, Air Permits, Toxics and Indoor Air Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAP), Boston, MA 02114–2023, telephone number (617) 918–1653, fax number (617) 918–0653, e-mail *mcdonnell.ida@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background to This Rulemaking
II. CAA Requirements and the Role of the Tribes
1. How did the 1990 CAA Amendments include the tribes?
2. What criteria must a tribe demonstrate to be treated in the same manner as a state under the CAA?
3. What is an implementation plan for criteria air pollutants and what must it contain?
III. Analysis of the Mohegan TIP
1. Are the Mohegans eligible to run their CAA air program?
2. Does the Mohegan TIP meet all CAA requirements?
IV. Proposed Action
V. Statutory and Executive Order Reviews

I. Background to This Rulemaking

On May 4, 2005, the Mohegan Tribe of Indians of Connecticut (the Tribe) submitted a Tribal Implementation Plan (Mohegan TIP) for approval by the EPA under the Clean Air Act (CAA). The Mohegan TIP consists of a tribal ordinance, entitled ''Area Wide NO_X Emissions Limitation Regulation,'' that establishes a limit on nitrogen oxide (NO_X) emissions from stationary sources owned by the Mohegan Tribal Gaming Authority and located within the external boundaries of the Mohegan Reservation. On August 22, 2007, the Tribe submitted an amendment to the Mohegan TIP.

II. CAA Requirements and the Role of the Tribes

1. How did the 1990 CAA Amendments include the tribes?

Under the 1990 Amendments to the Clean Air Act (CAA), the EPA may approve eligible tribes to administer certain provisions of the CAA. Pursuant to Section 301(d)(2) of the CAA, EPA promulgated the Tribal Authority Rule (TAR) on February 12, 1998 (63 FR 7254). The TAR specifies the CAA provisions for which it is appropriate to treat tribes in the same manner as states, the eligibility criteria the tribes must meet if they choose to seek such treatment, and the procedure by which EPA reviews a tribe's request for an eligibility determination.

As a general matter, EPA determined in the TAR that it is not appropriate to treat tribes in the same manner as states for purposes of specific plan submittal and implementation deadlines for NAAQS-related requirements. 40 CFR 49.4. Thus, tribes are generally not subject to CAA provisions which specify a deadline by which something must be accomplished. So, for example, provisions mandating the submission of state implementation plans do not apply to the tribes. Furthermore, under the TAR (40 CFR 49.7(c)), a tribe may choose to implement reasonably severable portions of the various CAA programs, as long as it can demonstrate that its proposed air program is not integrally related to program elements that are not included in the plan submittal and is consistent with applicable statutory and regulatory requirements. So, for example, a tribe may choose to submit a TIP that uses a limited set of methods to control just one or two air pollutants. This modular approach is intended to give tribes the flexibility to address their most pressing air resource issues and acknowledges that tribes often have limited resources with which to address their environmental concerns. Consistent with the exceptions listed in 40 CFR 49.4, once submitted, a tribe's proposed air program will be evaluated in accordance with applicable statutory and regulatory criteria in a manner similar to the way EPA would review a similar state submittal. 40 CFR 49.8(h).

EPA expects tribes to fully implement and enforce their approved programs and, as with states, EPA retains its discretionary authority to impose sanctions for failure to implement an air program.

Where the provisions of the act or implementing regulations governing the program for which the tribe seeks approval require criminal enforcement authority, the tribe may enter into a memorandum of agreement with the appropriate EPA Region to provide for criminal enforcement by EPA. 40 CFR 49.7(a)(6), 49.8.

2. What criteria must a tribe demonstrate to be treated in the same manner as a state under the CAA?

Under Section 301(d) of the Clean Air Act, 42 U.S.C. 7601, and the TAR (at 40 CFR 49.6), EPA may treat a tribe in the same manner as a state for purposes of administering certain CAA programs or grants if the tribe demonstrates that (1) it is federally recognized; (2) it has a governing body carrying out substantial governmental duties and powers; (3) the functions to be exercised by the tribe pertain to the management and protection of air resources within the tribe's reservation or within non-reservation areas under the tribe's jurisdiction; and (4) it can reasonably be expected to be capable of carrying out the functions for which it seeks approval.

3. What is an implementation plan for criteria air pollutants and what must it contain?

Implementation plans are a set of programs and regulations submitted by states and, if they so choose, by tribes, that outline a definite plan by which the state or tribe intends to help attain or maintain NAAQS. NAAQS have been established for the following six pollutants: Ozone; carbon monoxide; particulate matter; sulfur dioxide; lead; and nitrogen dioxide. The EPA calls these pollutants ''criteria pollutants'' because the original standards were based on information in air quality criteria documents developed for pollutants that ''endanger the public health or welfare''. Once approved by EPA, implementation plans become enforceable as a matter of federal law.

Implementation plans are governed by Section 110 of the CAA, 42 U.S.C. 7410. Under Sections 110(o) and 301(d) of the CAA and the TAR (40 CFR 49.9(h)), any TIP submitted to EPA shall be reviewed in accordance with the provisions for review of state implementation plans (SIPs) set forth in CAA Section 110. Thus, the TIP must include not only the substantive rules by which the tribe proposes to help achieve NAAQS, but also provide assurances that the tribe will have adequate personnel, funding, and authority to administer the plan, as required by CAA Section 110(a)(2)(E), and requirements governing conflicts of interest, as required by CAA Section 128.[1] Under Section 128, implementation plans must contain requirements that (1) any ''board or body'' that approves permits or enforcement orders have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to the permits or orders and (2) conflicts of interest are disclosed. EPA does not intend to read Section 128 to limit a tribe's flexibility in creating a regulatory infrastructure that ensures an adequate separation between the regulator and the regulated entity (59 FR 43956, 43964 (Aug. 25, 1994)).

EPA will evaluate the elements submitted in each TIP on a case-by-case basis to ensure the selected program is reasonably severable under the CAA, and that the TIP has control measures that adequately address the specific types of pollution of concern on the reservation. Once EPA approves the TIP, its provisions are enforceable by the tribe, by EPA, and by citizens. As with SIPs, EPA maintains an ongoing oversight role to ensure the approved TIP is adequately implemented and enforced and to provide technical and policy assistance. An important aspect of EPA's oversight role is that EPA retains legal authority to bring an enforcement action against a source violating the approved TIP.

III. Analysis of the Mohegan TIP

1. Are the Mohegans eligible to run their CAA air program?

On December 29, 2006, EPA determined that the Mohegan Tribe of Indians of Connecticut has demonstrated that it is eligible to be treated in the same manner as a state for the limited purpose of administering the Mohegan TIP and other similar programs to regulate minor sources of air pollution under Section 110 of the Act (42 U.S.C. 7410) within the Mohegan Reservation, as those boundaries existed on May 4, 2005 and as described in the revision to the Tribe's eligibility application submitted August 16, 2006. EPA's analysis of the Tribe's eligibility and its final determination of the Tribe's jurisdictional assertion under the TAR may be found in the electronic docket for this action.

2. Does the Mohegan TIP meet all CAA requirements?

As described below, we are satisfied that the Mohegan TIP adequately addresses the requirements of CAA Section 110(a)(2)(C). Under CAA Section 110(k), EPA determined the Mohegan TIP was complete on July 6, 2005, using the completeness criteria set forth in Appendix V of 40 CFR Part 51. As part of this completeness determination, we noted that the application included a description of how the Tribe intends to implement the TIP and provided evidence that the Area Wide NO_X Emissions Limitation Regulation (NO_X Regulation) and other necessary tribal laws were properly adopted. In accordance with CAA Section 110(a), the Tribe issued a public notice soliciting comments on its proposed TIP on February 25, 2005, held a public hearing on March 28, 2005 at the Mohegan Reservation in Uncasville, CT, and closed the public comment period on March 30, 2005 with no comments received. On August 22, 2007, the Tribe submitted an amendment to the NO_X Regulation described below.

Stationary sources owned by the Mohegan Tribal Gaming Authority have the potential to emit[2] NO_X in major source amounts, but have actual emissions that are below the major source thresholds. The primary objective for this rulemaking is to create a mechanism by which the emission limit for stationary sources owned by the Mohegan Tribal Gaming Authority located within the exterior boundaries of the Mohegan Reservation is enforceable as a practical matter. The Mohegan TIP is the equivalent of a permit that keeps the sources in ''synthetic minor'' status and ensures that the source is legally prohibited from operating as a major source. In other words, even though units owned by the Mohegan Tribal Gaming Authority have the potential to emit NO_X in major source amounts, they will be considered minor sources and will avoid triggering CAA major source requirements because the units

[1] *See* Section 110(a)(2)(E) of the Act, 42 U.S.C. 7410(a)(2)(E), which requires all implementation plans to contain the requirements described in Section 128 of the Act, 42 U.S.C. 7428. Tribal implementation plans must comply with Section 128, as neither Section 110(a)(2)(E) nor Section 128 of the Act are listed in the TAR as provisions that are inapplicable to tribes seeking TIP approval under the Act. *See* 40 CFR 49.4. EPA explicitly contemplated the applicability of Section 128 in the preamble to the proposed TAR. *See* 59 FR 43956, 43964 (Aug. 25, 1994).

[2] Potential to emit means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design.

collectively will be subject to an enforceable emissions limitation. Actual NO_X emissions from these units have never approached the major source thresholds. When the Tribe first submitted the NO_X Regulation, the cap on NO_X emissions in effect under the regulation was 99 tons per year (TPY). The Tribe subsequently amended the NO_X Regulation to lower that cap to 49 TPY, because the Tribe has chosen to enforce a limit below the threshold for major sources of NO_X applicable in the Greater Connecticut air quality planning area outside of and surrounding the Tribe's reservation. In accordance with CAA Section 110(a)(2)(B), the NO_X ordinance also contains monitoring, recordkeeping, reporting, and testing requirements as needed to assure compliance with the synthetic minor limit.

The Mohegan TIP will be administered primarily by the Mohegan Environmental Protection Department and enforced via the Gaming Disputes Court, a tribal court with exclusive jurisdiction over disputes arising out of or in connection with any action of the Mohegan Tribal Gaming Authority. Under the NO_X Regulation, the Administrator of the Mohegan Environmental Protection Department may issue a citation requiring an individual to appear before the Gaming Disputes Court for a judicial hearing on an alleged violation of the NO_X Regulation or, in emergencies, petition the Court for a cease and desist order. After hearing, the Gaming Disputes Court may issue final orders imposing injunctive relief and/or civil penalties of up to $25,000 per violation per day. In addition, the Mohegan Tribe of Indians of Connecticut and the U.S. Environmental Protection Agency have entered into a Memorandum of Agreement by which, for the purposes of criminal enforcement, the Tribe will provide potential investigative leads to EPA and/or other appropriate Federal agencies, as agreed to by the parties, in an appropriate and timely manner.

As noted above, CAA Section 110(a)(2)(E) requires an implementation plan to ''provide * * * necessary assurances that the [applicant] * * * will have adequate personnel, funding, and authority under [tribal] law to carry out such implementation plan.'' The Tribal Application contains such assurances and cites a provision of the MEPD Ordinance requiring the Tribal Council to ''provide such funding to the Department that will ensure that the Department can, at a minimum, appropriately develop, implement, monitor, and enforce the Tribal Implementation Plan and any other environmental programs approved by the Tribal Council.''

To demonstrate compliance with CAA Section 128, the Tribe submitted, as part of the Mohegan TIP, the Mohegan Tribal Ethics Ordinance. Under Section 4, Standard E of the Ethics Ordinance, ''public officials,'' or persons holding elected or appointed office, are prohibited from having or subsequently acquiring any ''direct or indirect financial or other economic interests'' that are in conflict with interests of the Tribe. Under Standard F, if required to act on a matter in which the public official has a personal economic interest (e.g., the Tribe wishes to purchase a parcel of land in which the public official has an interest), the public official must disclose such interest and abstain from participating in the deliberation and decision making process.[3] According to the Tribe, the Ethics Ordinance applies to the judges of the Gaming Disputes Court.

Given the structure of the NO_X Regulation, the Ethics Ordinance need only apply to the judges of the Gaming Disputes Court and not to the MEPD Administrator. First, under the NO_X Regulation, the MEPD Administrator is authorized only to issue a citation requiring an alleged violator to appear before the Court or to petition the Court for a cease and desist order. Enforcement orders for both civil penalties and injunctive relief are issued only by the Court. In other words, the Court is the ''board or body'' that ultimately ''approves * * * enforcement orders.'' Second, while the MEPD Administrator must approve emissions factors to be used in calculating NO_X emissions, as well as any construction or modification of NO_X sources, both of which resemble the grant of a permit, the NO_X Regulation requires the Administrator to give approval whenever specified standards are met. Because this duty to approve is nondiscretionary, the MEPD Administrator need not be, and is not, subject to the Ethics Ordinance.

IV. Proposed Action

EPA is proposing to approve the Mohegan TIP that was submitted on May 4, 2005, and amended on August 22, 2007 for limiting NO_X emissions from stationary sources owned by the Mohegan Tribal Gaming Authority to 49 TPY. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register**.

V. Statutory and Executive Order Reviews

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

Since this rule simply approves pre-existing tribal law, it does not result in any direct costs or preemption of tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Nonetheless, EPA has consulted extensively with the Mohegan Tribe concerning this proposed TIP approval. This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a tribal rule implementing a federal standard within the exterior boundaries of the Tribe's reservation, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to

[3] Section 5 of the Ethics Ordinance requires members of the Tribal Council and the Council of Elders and appointed public officials with fiscal responsibilities to file annual economic disclosure statements. An example disclosure statement is on file with EPA Region I. However, the Mohegan ''board or body'' at issue here is covered by neither category and, thus, not required to file such statements.

Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks''(62 FR 19885, April 13, 1997), because it approves a tribal rule implementing a Federal standard.

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

List of Subjects in 40 CFR Part 49

Environmental protection, Administrative practice and procedure, Air pollution control, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: August 27, 2007.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. E7–17535 Filed 9–5–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–3623; MB Docket No. 07–174; RM–11387]

Radio Broadcasting Services; Walden, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document sets forth a proposal to amend the FM Table of Allotments, Section 73.202(b) of the Commission's rules, 47 CFR 73.202(b). The Commission requests comment on a petition filed by Laramie Mountain Broadcasting, LLC. Petitioner proposes the allotment of Channel 226C3 at Walden, Colorado, as a potential second local aural service. Channel 226C3 can be allotted at Walden in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.6 km (12.8 miles) west of Walden. The proposed coordinates for Channel 226C3 at Walden are 40–42–01 North Latitude and 106–31–21 West Longitude.

DATES: Comments must be filed on or before October 8, 2007, and reply comments on or before October 23, 2007.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the designated petitioner as follows: A. Wray Fitch, III, Esq., Gammon & Grange, P.C., 8280 Greensboro Drive, Seventh Floor, McLean, Virginia 22102–3807.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 07–174, adopted August 15, 2007, and released August 17, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, or via the company's Web site, *http://www.bcpiweb.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506 (C)(4).

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Walden, Channel 226C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–17438 Filed 9–5–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–3621; MB Docket No. 07–176; RM–11389]

Radio Broadcasting Services; Humboldt, NE

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document sets forth a proposal to amend the FM Table of Allotments, Section 73.202(b) of the Commission's rules, 47 CFR 73.202(b). The Commission requests comment on a petition filed by Cumulus Licensing LLC. Petitioner proposes the allotment of Channel 272C3 at Humboldt, Nebraska, in order to maintain that community's first local service. (Petitioner, the permittee of Channel 244C3 at Humboldt, has filed an application to move the channel to Effingham, Kansas, as that community's first local service.) Channel 272C3 can be allotted at Humboldt in compliance with the Commission's minimum distance separation requirements at city reference coordinates, without site restriction. The proposed coordinates for Channel 272C3 at Humboldt are 40–09–51 North Latitude and 95–56–40 West Longitude.

DATES: Comments must be filed on or before October 8, 2007, and reply comments on or before October 23, 2007.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the designated petitioner as follows: Mark N. Lipp, Esq., Scott Woodworth, Esq., Wiley, Rein & Fielding LLP, 1776 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 07–176, adopted August 15, 2007, and released August 17, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, or via the company's Web site, *http://www.bcpiweb.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506 (C)(4).

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by adding Humboldt, Channel 272C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E7–17446 Filed 9–5–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 215 and 252

RIN 0750–AF40

Defense Federal Acquisition Regulation Supplement; Evaluation Factor for Use of Members of the Selected Reserve (DFARS Case 2006–D014)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 819 of the National Defense Authorization Act for Fiscal Year 2006. Section 819 authorizes DoD to use an evaluation factor that considers whether an offeror intends to perform a contract using employees or individual subcontractors who are members of the Selected Reserve.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before November 5, 2007, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2006–D014, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: dfars@osd.mil.* Include DFARS Case 2006–D014 in the subject line of the message.
- *Fax:* (703) 602–7887.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Michael Benavides, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.
- *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Benavides, (703) 602–1302.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule implements Section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163). Section 819 authorizes DoD to use an evaluation factor that considers whether an offeror intends to perform a contract using employees or individual subcontractors who are members of the Selected Reserve and requires offerors to submit documentation supporting any stated intent to use such employees or subcontractors.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because use of the evaluation factor is discretionary and is not expected to affect a significant number of acquisitions. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2006–D014.

C. Paperwork Reduction Act

This proposed rule contains a new information collection requirement. DoD has submitted the following proposal to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information

collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The following is a summary of the information collection requirement.

Title: Defense Federal Acquisition Regulation Supplement (DFARS); Evaluation Factor for Employing or Subcontracting with Members of the Armed Forces Selected Reserve.

Type of Request: New requirement.

Number of Respondents: 100.

Responses per Respondent: 1.

Annual Responses: 100.

Average Burden per Response: 1 hour.

Annual Burden Hours: 100.

Needs and Uses: DoD needs this information to implement Section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163). Section 819 authorizes DoD to use an evaluation factor that considers whether an offeror intends to perform a contract using employees or individual subcontractors who are members of the Selected Reserve, and requires offerers to submit documentation supporting any stated intent to use such employees or subcontractors.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

Written comments and recommendations on the proposed information collection should be sent to Ms. Hillary Fielden at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, with a copy to the Defense Acquisition Regulations System, Attn: Mr. Michael Benavides, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Acquisition Regulations System, Attn: Mr. Michael Benavides, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

List of Subjects in 48 CFR Parts 215 and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR parts 215 and 252 as follows:

1. The authority citation for 48 CFR parts 215 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 215—CONTRACTING BY NEGOTIATION

2. Sections 215.370 through 215.370–3 are added to read as follows:

215.370 Evaluation factor for employing or subcontracting with members of the Selected Reserve.

215.370–1 Definition.

Selected Reserve, as used in this section, is defined in the provision at 252.215–XXXX, Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve.

215.370–2 Evaluation factor.

In accordance with Section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163), the contracting officer may use an evaluation factor that considers whether an offeror intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve. See PGI 215.370–2 for guidance on use of this evaluation factor.

215.370–3 Solicitation provision and contract clause.

(a) Use the provision at 252.215–XXXX, Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve, in solicitations that include an evaluation factor considering whether an offeror intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve.

(b) Use the clause at 252.215–YYYY, Use of Employees or Individual Subcontractors Who are Members of the Selected Reserve, in solicitations that include the provision at 252.215–XXXX. Include the clause in the resultant contract only if the contractor stated in its proposal that it intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve, and that statement was used as an evaluation factor in the award decision.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Sections 252.215–XXXX and 252.215–YYYY are added to read as follows:

252.215–XXXX Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve.

As prescribed in 215.370–3(a), use the following provision:

Evaluation Factor for Employing or Subcontracting With Members of the Selected Reserve (XXX 2007)

(a) *Definition. Selected Reserve,* as used in this provision, has the meaning given that term in 10 U.S.C. 10143. Selected Reserve members normally attend regular drills throughout the year and are the group of Reserves most readily available to the President.

(b) This solicitation includes an evaluation factor that considers the offeror's intended use of employees, or individual subcontractors, who are members of the Selected Reserve.

(c) If the offeror, in the performance of any contract resulting from this solicitation, intends to use employees or individual subcontractors who are members of the Selected Reserve, the offeror's proposal shall include documentation to support this intent. Such documentation may include, but is not limited to—

(1) Existing company documentation, such as payroll or personnel records, indicating the names of the Selected Reserve members who are currently employed by the company; or

(2) A statement that one or more positions will be set aside to be filled by new hires of Selected Reserve members, along with verifying documentation.

(End of provision)

252.215–YYYY Use of Employees or Individual Subcontractors Who are Members of the Selected Reserve.

As prescribed in 215.370–3(b), use the following clause:

Use of Employees or Individual Subcontractors Who Are Members of the Selected Reserve (XXX 2007)

(a) *Definition. Selected Reserve,* as used in this clause, has the meaning given that term in 10 U.S.C. 10143. Selected Reserve members normally attend regular drills throughout the year and are the group of Reserves most readily available to the President.

(b) If the Contractor stated in its offer that it intends to use members of the Selected Reserve in the performance of this contract—

(1) The Contractor shall use employees, or individual subcontractors, who are members of the Selected Reserve in the performance of the contract to the fullest extent consistent with efficient contract performance; and

(2) The Government has the right to terminate the contract for default if the Contractor willfully or intentionally fails to use members of the Selected Reserve, as employees or individual subcontractors, in the performance of the contract.

(End of clause)

[FR Doc. E7–17424 Filed 9–5–07; 8:45 am]

BILLING CODE 5001–08–P

Notices

Federal Register

Vol. 72, No. 172

Thursday, September 6, 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

Forest Service

Notice of Southwest Idaho Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393), the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will conduct a business meeting, which is open to the public.

DATES: Wednesday, September 12, 2007, beginning at 10:30 a.m.

ADDRESSES: Idaho Counties Risk Management Program Building, 3100 South Vista Avenue, Boise, Idaho.

SUPPLEMENTARY INFORMATION: Doug Gochnour, Designated Federal Officer, at 208–392–6681 or e-mail *dgochnour@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Agenda topics will include review and approval of project proposals, and is an open public forum.

Dated: August 29, 2007.

Richard A. Smith,

Forest Supervisor, Boise National Forest.

[FR Doc. 07–4345 Filed 9–5–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Madera County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Resource Advisory Committee Meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act of 1972 (Pub. L. 92–463) and under the secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Sierra National Forest's Resource Advisory Committee for Madera County met on Monday, August 13, 2007. The Madera Resource Advisory Committee met at the Forest Service Office, North Fork, CA 93643. The purpose of the meeting was: Agree on parameters for accepting solicitations for Title II funding for FY 2007 and set a date for the final meeting when proposals will be approved for recommendation to the Forest Supervisor. The primary discussion revolved around what types of projects the RAC would be willing to entertain for this round of funding. Due to the extremely short turn-around time and the difficulty of a new extensive solicitation, what will be considered was brought into a very narrow focus.

The following were generally agreed-to by unanimous consent as projects that would be considered for funding:

Invasive Weed Management—submitted through the Coarsegold RCD, similar proposal and $$ as last year;

High Sierra Volunteer Trail Crew—Submitted through the same group/Shane Krogan, similar proposal and $$ as last year;

Goat Mountain Fuelbreak—Submitted through the Coarsegold RCD, would consider funding the balance of funding needed from last year but was cut. Estimated at $10,000 to $15,000;

Forest Service Fuel Hazard reduction in Cedar Valley—Submitted through the Forest Service as an adjunct to the Cedar Valley Project. Primarily directed at road hazard reduction clearing on either side of the Cedar Valley Road;

Planning for the San Joaquin Trail project—Submitted through the San Joaquin River Trail Council, estimated at $10,000–$15,000. This planning will allow the expenditure of another $40,000 of existing funding to finish the last trail segment between Millerton Lake and the Mammoth trailhead;

Kinsman Fuel Hazard—Submitted through the USFS. Completion of fuel hazard reduction around Kinsman Flat private land.

Dave agreed to contact prospective project proponents ASAP and get completed proposals out to RAC members 1–2 weeks prior to the meeting on September 10.

DATE: The final Madera Resource Advisory Committee meeting will be held Monday, September 10, 2007. The meeting will be held from 7 p.m. to 9 p.m.

ADDRESSES: The Madera County RAC meeting will be held at the Forest Service Office, 57003 Road 225, North Fork, CA 93644.

FOR FURTHER INFORMATION CONTACT: Dave Martin, U.S.D.A., Sierra National Forest, Bass Lake Ranger District, 57003 Road 225, North Fork, CA 93643 (559) 877–2218 ext. 3100; e-mail: *dmartin05@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The final RAC meeting on September 10 will be held to make recommendations for project proposals requested at the August 13 meeting.

Dated: August 29, 2007.

David W. Martin,

District Ranger, Bass Lake Ranger District.

[FR Doc. 07–4346 Filed 9–5–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Fee Site; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Rogue River-Siskiyou National Forest, USDA Forest Service.

ACTION: Notice of Proposed New Fee Site.

SUMMARY: The Wild Rivers Ranger District of the Rogue River-Siskiyou National Forest is proposing to charge a $4/day use fee per vehicle at the Illinois River Scenic Recreation area. A seasonal pass of $25 per vehicle and a charge of $10 fee for the overnight use of Store Gulch Campground are also proposed. These fees are proposed to begin in fiscal year 2008. Use of the developed recreation facilities on the Illinois River of the Rogue River-Siskiyou National Forest has shown that the public appreciates and enjoys the availability of the recreation experience. Funds from the fee charges would be used for the continued operation and maintenance of the Illinois River Scenic Recreation area and improvements including law enforcement and sanitation.

DATES: The fees would be charged from May 1 to September 30.

ADDRESSES: Forest Supervisor, Rogue River-Siskiyou National Forest, 333 W. 8th Street/P.O. Box 520, Medford, Oregon 97501–0209.

FOR FURTHER INFORMATION CONTACT: Jerry Sirski, Recreation Specialist, 541–899–3815.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are proposed.

These facilities are in close proximity to the Wild, Scenic, and Recreational segments of the Illinois River. This area offers significant recreational viewing opportunities, fishing experiences, and is rich in historical and cultural importance. A market analysis indicates that the $4/per day single vehicle fee is both reasonable and acceptable for this sort of unique recreation experience.

Dated: August 29, 2007.

Scott D. Conroy,

Forest Supervisor, Rogue River-Siskiyou National Forest.

[FR Doc. 07–4344 Filed 9–5–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Virginia State Technical Guide

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in the Virginia NRCS State Technical Guide for review and comment.

SUMMARY: It has been determined by the NRCS State Conservationist for Virginia that changes must be made in the NRCS State Technical Guide specifically in practice standards: #396, Fish Passage and #645, Upland Wildlife Habitat Management. These practices will be used to plan and install conservation practices on cropland, pastureland, woodland, and wildlife land.

DATES: Comments will be received for a 30-day period commencing with the date of this publication.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to John A. Bricker, State Conservationist, Natural Resources Conservation Service (NRCS), 1606 Santa Rosa Road, Suite 209, Richmond, Virginia 23229–5014; Telephone number (804) 287–1691; Fax number (804) 287–1737. Copies of the practice standards will be made available upon written request to the address shown above or on the Virginia NRCS Web site: *http://www.va.nrcs.usda.gov/technical/draftstandards.html.*

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Virginia will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Virginia regarding disposition of those comments and a final determination of change will be made to the subject standards.

Dated: August 27, 2007.

Kenneth E. Carter,

Assistant State Conservationist (Programs), Natural Resources Conservation Service, Richmond, Virginia.

[FR Doc. E7–17624 Filed 9–5–07; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 070619210–7489–02]

Request for Public Comments on a Systematic Review of the Commerce Control List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of Inquiry; extension of comment period.

SUMMARY: This notice extends the comment period on a July 17, 2007 notice of inquiry in which the Bureau of Industry and Security (BIS) solicited comments from the public regarding the Commerce Control List (CCL) in the Export Administration Regulations (EAR). This extension of time would allow the public additional time to comment on the notice of inquiry.

DATES: Comments must be received by November 1, 2007.

ADDRESSES: Written comments on this notice of inquiry may be sent by e-mail to *publiccomments@bis.doc.gov.* Include ''Notice of Inquiry—CCL'' in the subject line of the message. Comments may also be submitted by mail or hand delivery to Timothy Mooney, Office of Exporter Services, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC. 20230, ATTN: Notice of Inquiry—CCL; or by fax to (202) 482–3355.

FOR FURTHER INFORMATION CONTACT: Timothy Mooney, Regulatory Policy Division, Bureau of Industry and Security, Telephone: (202) 482–2440, E-mail: *tmooney@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 17, 2007, the Bureau of Industry and Security (BIS) published a notice of inquiry in the **Federal Register** (72 FR 39052) that invited the public to submit comments regarding the Commerce Control List (CCL) in the Export Administration Regulations (EAR).

The notice indicated that, in addition to seeking recommendations from its Technical Advisory Committees (TACs) as a part of a systematic review of the CCL, BIS believed that it would also be beneficial to allow interested members of the public to submit comments regarding the CCL.

Specifically, in addition to seeking recommendations from its TACs, BIS invited the interested public to submit comments regarding:

(1) The overall structure of the CCL, including suggestions for how the structure of the CCL may be changed to better advance U.S. national security, foreign policy, and economic interests;

(2) Types of items that should be listed on the CCL and the appropriate levels of controls to be placed on those items, taking into account technology levels, markets, and foreign availability;

(3) Any updates to the CCL item descriptions that would enable the descriptions to better reflect the intent of the multinational controls and to eliminate any overly broad descriptions that inadvertently capture non-critical items that are not controlled by other countries; and

(4) Coordination and harmonization of controls on items covered by the multilateral regimes, such as the Wassenaar Arrangement.

The notice of inquiry indicated that the deadline for public comments closes on September 17, 2007. BIS is now extending the comment period until November 1, 2007, to allow the public additional time to comment on the notice of inquiry.

Dated: August 30, 2007.

Tom Andrukonis,

Acting, Director, Office of Exporter Services.

[FR Doc. E7–17639 Filed 9–5–07; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Membership of the National Oceanic and Atmospheric Administration Performance Review Board

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of Membership of the NOAA Performance Review Board.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), NOAA announces the appointment of twenty-two members to serve on the NOAA Performance Review Board (PRB). The NOAA PRB is responsible for reviewing performance appraisals and ratings of Senior Executive Service (SES) members and making written recommendations to the appointing authority on SES retention and compensation matters, including performance-based pay adjustments, awarding of bonuses and reviewing recommendations for potential Presidential Rank Award nominees. The appointment of members to the NOAA PRB will be for a period of 24 months.

EFFECTIVE DATE: The effective date of service of the twenty-two appointees to the NOAA Performance Review Board is September 4, 2007.

FOR FURTHER INFORMATION CONTACT: Claudia McMahon, Executive Resources Program Manager, Workforce Management Office, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–6306.

SUPPLEMENTARY INFORMATION: The names and position titles of the members of the NOAA PRB are set forth below (all are NOAA officials except Tyra D. Smith, Director, Human Resources, Bureau of the Census, Department of Commerce; William J. Fleming, Deputy Director for Human Resources Management, Office of Human Resources Management, Department of Commerce:

John E. Oliver, Jr.—Deputy Assistant Administrator for Operations, National Marine Fisheries Service

Maureen E. Wylie—Chief Financial Officer

Vickie L. Nadolski—Director, Western Region, National Weather Service

Charles S. Baker—Deputy Assistant Administrator, National Environmental Satellite, Data and Information Service

Alexander E. MacDonald—Deputy Assistant Administrator for Laboratories and Cooperative Institutes and Director, ESRL, Office of Oceanic and Atmospheric Research

Paul N. Doremus—Director, Strategic Planning Office of Program Planning and Integration

William Corso—Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service

Timothy R.E. Keeney—Deputy Assistant Secretary

Tyra D. Smith—Director, Human Resources, Bureau of the Census, Department of Commerce

Craig N. McLean—Deputy Assistant Administrator for Programs and Administration, Office of Oceanic and Atmospheric Research

Elizabeth R. Scheffler—Associate Assistant Administrator for Management and CFO/CAO, National Ocean Service

Rebecca Lent—Director, International Affairs, National Marine Fisheries Service

Deidre R. Jones—Director, Systems Engineering Center, National Weather Service

Joseph F. Klimavicz—Chief Information Officer and Director for High Performance Computing and Communications, Office of the Under Secretary

Scott C. Rayder—Chief of Staff for NOAA

Helen M. Hurcombe—Director, Acquisition and Grants Office

Gregory A. Mandt—Director, Science and Technology, National Weather Service

Louis W. Uccellini—Director, National Centers for Environmental Prediction, National Weather Service

Samuel D. Rauch III—Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service

Kathleen A. Kelly—Director, Office of Satellite Operations, National Environmental Satellite, Data and Information Service

Daniel J. Basta—Director, Office of National Marine Sanctuaries, National Ocean Service

William J. Fleming—Deputy Director for Human Resources Management, Department of Commerce

Dated: August 28, 2007.

Conrad C. Lautenbacher, Jr.,

Vice Admiral, U.S. Navy (Ret.), Under Secretary of Commerce for Oceans and Atmosphere.

[FR Doc. 07–4347 Filed 9–5–07; 8:45 am]

BILLING CODE 3510–12–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission (Commission).

DATE AND TIME: Tuesday, September 18, 2007, commencing at 9 a.m.

PLACE: 1155 21st Street, NW., Washington, DC, Lobby Level Hearing Room (Room 1000).

STATUS: Open.

MATTERS TO BE CONSIDERED: Public hearing to examine the oversight of trading on regulated futures exchanges and Exempt Commercial Markets (ECMs).

CONTACT PERSONS AND ADDRESSES: Requests to appear and supporting materials should be mailed to the Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581, attention Office of the Secretariat; transmitted by facsimile at 202–418–5521; or transmitted electronically to [*secretary@cftc.gov*]. Reference should be made to ''oversight of trading on regulated futures exchanges and Exempt Commercial Markets.'' For substantive questions regarding requests to appear and supporting materials, please contact David P. Van Wagner, Chief Counsel, (202) 418–5481; or Duane Andresen, Special Counsel, (202) 418–5492, Division of Market Oversight.

SUPPLEMENTARY INFORMATION: The Commission is undertaking a review of issues related to the oversight of trading on regulated futures exchanges and Exempt Commercial Markets (ECMs). In furtherance of that review, the Commission hereby announces that it will hold a public hearing to commence on Tuesday, September 18, 2007, at 9 a.m., at the Commission's headquarters in Washington, DC.

The Commission has previously announced that the hearing will generally focus on a number of issues, including:

- The tiered regulatory approach of the Commodity Futures Modernization Act of 2000 (CFMA) and whether this risk-based model is beneficial;
- The similarities and differences between ECMs and regulated exchanges;
- The associated regulatory risks of each market category;
- The types of regulatory or legislative changes that might be appropriate to address such identified risks; and
- The impact that regulatory or legislative changes might have on the

U.S. futures industry and the global competitiveness of the U.S. financial industry in general. (CFTC Release No. 5368–07, August 2, 2007.)

A transcript of the hearing will be made and entered into the Commission's public comment files, which will remain open for the receipt of written comments until September 24, 2007.

Issued in Washington, DC, on September 4, 2007, by the Commission.

David Stawick,

Secretary of the Commission.

[FR Doc. 07–4379 Filed 9–4–07; 12:33 pm]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

[DOD–2007–OS–0193]

Privacy Act of 1974; System of Records

AGENCY: Defense Intelligence Agency, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Defense Intelligence Agency is proposing to add a system of records to its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on October 9, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Freedom of Information Office, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd., Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery at (202) 231–1193.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 29, 2007, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: August 30, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

LDIA 07–0003

SYSTEM NAME:

Information Technology Support System.

SYSTEM LOCATION:

Defense Intelligence Analysis Center (DIAC), Bolling AFB, Bldg 6000, Washington, DC 20340-5100.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DoD intelligence information system (DoDIIS) civilian personnel, military members, and contractor employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's full name, Social Security Number (SSN) and employee type (civilian, military, or contractor).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1974, as amended; 5 U.S.C. 301, Departmental Regulations; and E.O. 9397 (SSN).

PURPOSE(S):

To manage the Enterprise Information Technology (IT) Operations regarding technological and administrative actions, and human performance in the delivery of IT services (i.e., Password Issuance, Software and Hardware Requirements, Incident Reporting and Change, Release to Configuration Mgt Issues) to the DoD intelligence information system community.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic Storage Media.

RETRIEVABILITY:

Individual's last name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are stored in office buildings protected by guards, controlled screenings, use of visitor registers, electronic access, and/or locks. Access to records is limited to individuals who are properly screened and cleared on a need-to-know basis in the performance of their duties. Passwords and User IDs are used to control access to the system data, and procedures are in place to deter and detect browsing and unauthorized access. Physical and electronic access are limited to persons responsible for servicing and authorized to use the system.

RETENTION AND DISPOSAL:

Electronic records are destroyed when the agency determines they are no longer needed for administrative, legal, audit, or other operational purposes.

SYSTEM MANAGER(S) TITLE AND ADDRESS:

Chief, Customer Relationship Management Division, Defense Intelligence Agency, Bldg 6000, Bolling AFB, Washington, DC 20340–5100.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the DIA Privacy Office (DAN–1A), Defense Intelligence Agency, 200 MacDill Blvd, Washington, DC 20340–5100.

Request should contain the individual's full name, current address, telephone number, and Social Security Number (SSN).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves, contained in this system of records, should address written inquiries to the DIA Privacy Official, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd, Washington, DC 20340–5100. Request should contain the individual's full name, current address, telephone number, and Social Security Number (SSN).

CONTESTING RECORD PROCEDURES:

DIA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DIA Regulation 12–12 ''Defense Intelligence Agency Privacy Program''; 32 CFR part 319—Defense Intelligence Agency Privacy Program; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual, DIA Security Files, and Human Resources Data Base.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 07–4342 Filed 9–5–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

[USA–2007–0027]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Alter a System of Records.

SUMMARY: The Department of the Army is proposing to alter a system of records in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on October 9, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Dickerson at (703) 428–6513.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 29, 2007, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: August 30, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0385–10/40 ASO

SYSTEM NAME:

Army Safety Management Information System (ASMIS) (December 28, 2004, 69 FR 77742).

CHANGES:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''individuals (includes contractors, volunteer personnel, members of the public) involved in accidents incident to Army and USACE operations and recreational facilities, and DoD personnel who perform a travel risk assessments for leave, pass, or other purpose (may include civilian and military personnel from the Army, Air Force, Navy, Marine Corps and Coast Guard).''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Records related to Army accidents and risk assessments include name of injured individual, name of individual performing risk assessment, Social Security Number (SSN), age, gender, pay grade, job title, start point and destination of travel, travel dates, personal protective equipment usage, alcohol and medication usage, sleep and rest plans, leave or pass address and phone number date of injury, location of accident, activity at time of injury, type of injury, board findings, recommendations, witness statements, wreckage distribution diagrams, maintenance and material data, and other personal and accident related and environmental information.''

* * * * *

PURPOSE(S):

Delete entry and replace with ''Information will be used to monitor and facilitate the U.S. Army's and the USACE Safety and Occupational Health Offices' safety programs; to analyze accident experience and exposure information; to analyze and correlate relationships between planned actions and resultant accidents; and to support the Army's accident prevention efforts. Information will also be used to support DOD accident prevention efforts through risk assessments conducted by DOD personnel prior to travel for leave, pass or other purpose (may include civilian and military personnel from the Army, Air Force, Navy, Marine Corps and Coast Guard).''

STORAGE:

Delete entry and replace with ''Paper records in file folder and electronic storage media.''

* * * * *

A0385–10/40 ASO

SYSTEM NAME:

Army Safety Management Information System (ASMIS).

SYSTEM LOCATION:

U.S. Army Combat Readiness Center (USACRC), 4905 5th Avenue, Fort Rucker, AL 36362–5363, and the U.S. Army Center for Health Promotion and Preventive Medicine (USACHPPM), 5158 Blackhaw Road, Aberdeen Proving Ground, MD 21010–5403.

U.S. Army Corps of Engineers (USACE): Chief, Safety and Occupational Health Office, Headquarters, U.S. Army Corps of Engineers, 441 G Street NW., Washington, DC 20314–1000, and all U.S. Army Corps of Engineers Safety and Occupational Health Offices. Official mailing addresses are published as an Appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals (includes contractors, volunteer personnel, and members of the public) involved in accidents incident to Army and USACE operations and recreational facilities and DoD personnel who perform risk assessments prior to travel for leave, pass or other purpose (may include civilian and military personnel from the Army, Air Force, Navy, Marine Corps and Coast Guard).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records related to Army accidents and risk assessments include name of injured individual, name of individual performing risk assessment, Social Security Number, age, gender, pay grade, job title, start point and destination of travel, travel dates, personal protective equipment usage, alcohol and medication usage, sleep and rest plans, leave or pass address and phone number date of injury, location of accident, activity at time of injury, type of injury, board findings, recommendations, witness statements, wreckage distribution diagrams, maintenance and material data, and other personal and accident related and environmental information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 5 U.S.C. 7902, Safety Programs; Public Law 91–596, Occupational Safety and Health Act of 1970; DoD Instruction 6055.1, DoD Safety and Occupational Health Programs; Army Regulations 385–10, Army Safety Program; Army Regulation 385–40, Accident Reporting and Records; and E.O. 9397 (SSN).

PURPOSE(S):

Information will be used to monitor and facilitate the U.S. Army's and the USACE Safety and Occupational Health Offices' Safety programs; to analyze accident experience and exposure information; to analyze and correlate relationships between planned actions and resultant accidents; and to support the Army's accident prevention efforts. Information will also be used to support DoD accident prevention efforts through risk assessments conducted by DoD personnel prior to travel for leave, pass or other purpose (may include civilian and military personnel from the Army,

Air Force, Navy, Marine Corps and Coast Guard).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Labor, the Federal Aviation Agency, the National Transportation Safety Board, and to Federal, State, and local agencies, and applicable civilian organizations, such as the National Safety Council, for use in a combined effort of accident prevention.

In some cases, data must also be disclosed to an employee's representative under the provisions of 29 CFR 1960.29.

The DoD ''Blanket Routine Uses'' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Individual's name and Social Security Number (SSN).

SAFEGUARDS:

Paper records and computer stored records are maintained in locked file cabinets behind security doors. Information is accessible only by authorized personnel with appropriate clearance/access in the performance of their duties. Remote terminal accessible only by authorized personnel.

At United States Army Corps of Engineers and United States Army Center for Health Promotion and Preventive Medicine the computer stored records are secured behind security doors, accessible only by authorized personnel provided password access.

RETENTION AND DISPOSAL:

Accident and incident case records and aviation accident and incident case records are maintained for 5 years then destroy, except for: USACRC and USACE maintain for 30 years in current file area then destroy; Office of Corps of Engineers records created prior to 1 January 1982 maintain for 30 years then destroy. Environmental restoration reports are maintained for 50 years then destroyed (5 years in current file area then transferred to records holding area). Reports of artillery mis-firings or accidents and harmful chemical, biological and radiological exposures accumulated in combat or combat support elements are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Combat Readiness Center, 4905 5th Avenue, Fort Rucker, AL 36362–5363.

Commander, U.S. Army Center for Health Promotion and Preventive Medicine, 5158 Blackhawk Road, Aberdeen Proving Ground, MD 21010–5403.

Chief, Safety and Occupational Health Office, Headquarters, U.S. Army Corps of Engineers, 441 G Street, NW., Washington, DC 20314–1000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about them is contained in this system should address written inquiries to the appropriate system manager.

Request should contain individual's full name, Social Security Number (SSN), current address, telephone number, when and where the accident occurred, type of equipment involved in the accident, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them contained in this system should address written inquiries to the appropriate system manager.

Request should contain individual's full name, Social Security Number (SSN), current address, telephone number, when and where the accident occurred, type of equipment involved in the accident, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Records and reports of accident, injury, fire, morbidity, law enforcement, traffic accident investigations, vehicle accident reports, and marine accident/casualty reports, individual sick clips, and military aviation records/reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 07–4343 Filed 9–05–07; 8:45 am]

BILLING CODE 5001–06–M

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Wednesday, September 26, 2007. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's office building, located at 25 State Police Drive in West Trenton, New Jersey.

The conference among the commissioners and staff will begin at 10:15 a.m. Topics of discussion will include a status report by staff of the U.S. Army Corps of Engineers (USACE) and DRBC on the study entitled ''Multi-Jurisdictional Use and Management of Water Resources for the Delaware River Basin''; a report on the status of Basin Plan implementation; a presentation by staff of the USACE on a groundwater model for northern Delaware; a presentation on a proposal for permanent designation of the Lower Delaware River as Special Protection Waters; and a report on the status of the proposal for a Flexible Flow Management Program.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed below:

1. *Forest Park Water (North Penn and North Wales Water Authorities) D–65–76 CP–10.* An application for the renewal of a project to continue to discharge up to 2 million gallons per day (mgd) of treated backwash water from the potable water treatment plant to Pine Run, a tributary of North Branch Neshaminy Creek. No expansion of the water treatment process or the wastewater treatment plant (WWTP) backwash is proposed. The project will continue to serve portions of Bucks and Montgomery Counties, both in Pennsylvania. The project is located in the non-tidal portion of the Neshaminy Creek Watershed in Chalfont Borough, Bucks County, Pennsylvania and is located in the Southeastern Pennsylvania Ground Water Protected Area.

2. *Abington Township D–73–191 CP–2.* An application for approval of an upgrade of the Abington Township WWTP. The application is for the addition of biological nutrient removal, the addition of a 750,000 gallon equalization tank and associated upgrades for wet-weather flow

conditions. The WWTP will continue to discharge 3.91 mgd as an annual average flow to the Wissahickon Creek, a tributary to the Schuylkill River. The project is located in Upper Dublin Township, Montgomery County, Pennsylvania.

3. *Pennsgrove Water Supply Company D–93–77 CP–3.* An application to replace the withdrawal of water from Well No. 11 in the applicant's water supply system with no increase in the total withdrawal. The existing Well No. 11 has become an unreliable source of supply. The total withdrawal from replacement Well No. 11A and all other wells will remain limited to 70.4 million gallons per thirty days (mg/30 days). The project is located in the Potomac-Raritan-Magothy Formation in the Delaware River Watershed in Pennsgrove Borough, Salem County, New Jersey.

4. *Westwood Golf Club, D–96–3–2.* An application for the renewal of a ground water withdrawal project to continue withdrawal of 5 mg/30 days to supply the applicant's golf course from existing Wells Nos. 2 and 3 in the Englishtown Aquifer. The project is located in the Lower Delaware Watershed in West Deptford Township, Gloucester County, New Jersey, in New Jersey Critical Water Supply Area 2.

5. *William Henry Apartments D–68–92–2.* An application for approval of upgrades of the existing William Henry Apartments WWTP to remedy operational issues. The WWTP will be modified to treat domestic wastewater at the hydraulic design of the facility, which is 69,000 gallons per day (gpd). The applicant's WWTP serves the William Henry Apartment complex and will continue to discharge to the headwaters of Ridley Creek. The project is located in East Whiteland Township, Chester County, Pennsylvania.

6. *Aqua Pennsylvania, Inc. D–75–78 CP–2.* An application for the renewal of a ground water withdrawal project to increase withdrawal from 3.6 mg/30 days to 8.3 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 2, 3 and 4 and one spring in the Duncannon, Polar Gap and Packerton members of the Catskill Formation. The increased allocation is requested in order to meet projected increases in service area demand. The project is located in the Van Auken Creek Watershed in Waymart Borough, Wayne County, Pennsylvania, within the drainage area to the section of the non-tidal Delaware River known as the Upper Delaware, which is designated as Special Protection Waters.

7. *Kiamesha Artesian Spring Water Company, Inc. D–90–68 CP–3.* An application for the renewal of a ground water withdrawal project and to increase withdrawal from 9.8 mg/30 days to 27.78 mg/30 days to supply the applicant's public water supply distribution system from the existing Filtration Plant Well and Fraser Road Well and two existing but heretofore undocketed intakes in Kiamesha Lake. The increased allocation is requested in order to meet projected increases in service area demand. The project is located in the Kiamesha Creek Watershed in the Town of Thompson, Sullivan County, New York, within the drainage area to the section of the non-tidal Delaware River known as the Upper Delaware, which is designated as Special Protection Waters.

8. *Upper Gwynedd Township D–91–88 CP–3.* An application for the approval of the rerate of the Upper Gwynedd Township WWTP from 4.5 mgd to 5.7 mgd as an annual average flow. The docket holder has also requested a 6.5 mgd value for a maximum monthly flow and a hydraulic design capacity. The WWTP will continue to discharge to the Wissahickon Creek, a tributary to the Schuylkill River. The project is located in Upper Gwynedd Township, Montgomery County, Pennsylvania.

9. *Lehigh County Authority D–2001–20 CP–2.* An application for approval of a groundwater withdrawal project to supply up to 30.94 mg/30 days of water to the applicant's public water supply distribution from new Wells A and B and to increase the existing withdrawal from all wells from 226 mg/30 days to 256.24 mg/30 days. The increased allocation is requested in order to meet projected increases in service area demand. The project is located in the Allentown, Jacksonburg and Beekmantown formations in the Schaefer Run, Little Lehigh Creek, Cedar Creek and Iron Run watersheds in Upper Macungie Township, Lehigh County, Pennsylvania, within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.

10. *Coolbaugh Township D–2006–23 CP–2.* An application for approval to upgrade and expand an existing WWTP from 0.052 mgd to 0.1 mgd by the addition of membrane filters to the existing membrane bioreactor. The addition of the membrane filters will improve treatment quality and detention time, so that no new tanks are required. The project is located in Coolbaugh Township, Monroe County, Pennsylvania. The plant discharges to the Tobyhanna Creek in the Lehigh River Watershed, which is in the drainage area of the Lower Delaware River portion of the DRBC Special Protection Waters. The WWTP will continue to serve a portion of Coolbaugh Township only and will continue to discharge through the existing outfall, which is upstream from Francis E. Walter Dam and Pocono Lake. Coolbaugh Township is currently pursuing the beneficial reuse of the WWTP effluent for irrigation of a nearby golf course during the summer months.

11. *River Road Utilities, Inc. D–2006–38–1.* An application to approve the reconstruction and expansion of the existing Tuscarora WWTP. The discharge is proposed to increase from 49,000 gpd to 66,000 gpd and will continue to be to the Delaware River. The project is located in Upper Mount Bethel Township, Northampton County, Pennsylvania and discharges to the section of the non-tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.

12. *Wallace Township Municipal Authority D–2006–39 CP–1.* An application for approval of a groundwater withdrawal project to supply up to 8.1 mg/30 days of water to the applicant's public water supply distribution system from new Wells Nos. PW–4, PW–6, PW–7 and PW–8. The project is located in the Granitic Gneiss Formation in the East Brandywine Creek Watershed in Wallace Township, Chester County, Pennsylvania.

13. *East Brandywine Township Municipal Authority D–2007–2 CP–1.* An application for approval of a WWTP project to serve proposed residential development in East Brandywine Township, Chester County, Pennsylvania. The proposed facility is designed to provide treatment of 0.3 mgd via sequencing batch reactor and tertiary filtration processes. The project is located at the intersection of East Reeceville and Bollinger Roads in East Brandywine Township. Following ultraviolet light disinfection, WWTP effluent will be discharged to a spray irrigation system of the proposed golf course and driving range, and, when necessary to a drip irrigation field.

14. *Forest Glen Estates, LLC D–2007–8–1.* An application for approval to discharge up to 33,750 gallons per day to a holding pond and subsequently through a spray irrigation system to irrigate 14.5 acres of woodlands. Wastewater will be generated from the applicant's proposed 134 one-acre single-family residential lots and an 18-acre existing homestead on a 313-acre tract. The project is located in the

Dingmans Creek Watershed in Delaware Township, Pike County, Pennsylvania.

15. *Vogel Farm and Broad Mountain Spring Water Companies D–2007–10–1.* An application for approval of a groundwater withdrawal project to supply up to 6.26 mg/30 days of water to the applicant's bottled water truck loading facilities from new Wells VFPW1, VFPW2 and BMPW1. The project is located in the Mauch Chunk Formation in the Quakake Creek Watershed in Packer Township, Carbon County, Pennsylvania within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.

16. *Hamlet of Bloomville—Community Wastewater Management Program D–2007–11 CP–1.* An application for approval to construct a centralized wastewater treatment system to serve the Hamlet of Bloomville, which is currently served by on-lot septic systems. Two 0.03 mgd septic tanks will be provided, but each will be typically operated at an average flow of 0.015 mgd, so that maintenance can be performed periodically without a disruption of service. The septic tank effluent will be pumped to sand filters prior to subsurface discharge to cut-and-fill adsorption leach beds. The project is located in the Wright Brook and West Branch Delaware River watersheds upstream from Cannonsville Reservoir in the Town of Kortright, Delaware County, New York, which is in the drainage area of the Upper Delaware River portion of the DRBC Special Protection Waters.

17. *Hamlet of Hamden—Community Wastewater Management Program D–2007–12 CP–1.* An application for approval to construct a centralized wastewater treatment system to serve the Hamlet of Hamden, which is currently served by on-lot septic systems. Two 0.026 mgd septic tanks will be provided, but each will be typically operated at an average flow of 0.013 mgd, so that maintenance can be performed periodically without a disruption of service. The septic tank effluent will be pumped to sand filters prior to subsurface discharge to cut-and-fill adsorption leach beds. The project is located in the Launt Hollow Creek and the West Branch Delaware River watersheds upstream from Cannonsville Reservoir in the Town of Hamden, Delaware County, New York, which is in the drainage area of the Upper Delaware River portion of the DRBC Special Protection Waters.

18. *Wallace Township Municipal Authority D–2007–17 CP–1.* An application for approval to construct a 0.185 mgd WWTP to serve the proposed Hamilton development, located predominantly in Wallace Township, Chester County, Pennsylvania. A small portion of the 636-acre site extends into West Nantmeal Township, also in Chester County. Approximately 688 residential dwellings and supporting commercial buildings will be served. Following advanced treatment in parallel sequencing batch reactors, the effluent will be filtered and disinfected by ultra-violet light prior to land application via drip irrigation. The proposed WWTP and drip irrigation fields are located north of the intersection of Fairview and Creek Roads in the East Brandywine Creek Watershed in Wallace Township. No discharge to surface waters is proposed.

19. *Dragon Springs Buddhist, Inc. D–2007–21–1.* An application for approval to construct an 11,000 gpd WWTP and discharge the effluent to an unnamed tributary of the Basker Kill, a tributary of the Neversink River. The discharge is located in the drainage area of the Middle Delaware Special Protection Waters. The project is located in the Town of Deerpark, Orange County, New York. The project WWTP will treat wastewater from a proposed multi-purpose building, which will be constructed on 4.4 acres of forested land. The existing temple complex is served by septic systems that process less than 10,000 gallons per day (gpd). Several of these mound-type systems will continue to be used due to their remote location on the property and their efficient operation.

20. *Diamond Sand and Gravel, Inc. D–2007–27–1.* An application for approval of a groundwater withdrawal project to supply less than 3.1 mg/30 days of water to the applicant's sand and gravel plant from new Wells Nos. 1 and 2A. The project is located in the Leithsville Formation in the Paulins Kill Watershed in Sparta Township, Sussex County, New Jersey, within the drainage area to the section of the non-tidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters.

In addition, the Commission's 1:30 p.m. business meeting will include public hearings on: a resolution to approve an interim reservoir operating plan for the New York City Delaware Basin Reservoirs pending completion of rulemaking on Water Code amendments to implement the Flexible Flow Management Program (FFMP); a resolution to extend temporary designation of the Lower Delaware River as Special Protection Waters pending completion of a rulemaking on permanent designation; and a resolution to restore text inadvertently omitted from the project review fee schedule approved by Resolution No. 2005–1. The Commission also will consider a resolution concerning a Pennsylvania Coastal Zone Management Program grant to develop a pilot special area management plan for the Upper Wissahickon Watershed; and resolutions to authorize participation by DRBC staff in the State of New Jersey Long-Term Care Insurance Program.

The meeting will also include adoption of the Minutes of the Commission's July 18, 2007 business meeting; announcements of upcoming advisory committee meetings and other events; a report by the Executive Director; a report by the Commission's General Counsel; and an opportunity for public dialogue.

Draft dockets scheduled for public hearing on September 26, 2007 will be posted on the Commission's Web site, *http://www.drbc.net*, where they can be accessed through the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Please contact William Muszynski at 609–883–9500, extension 221, with any docket-related questions.

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the commission secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission can accommodate your needs.

Dated: August 30, 2007.

Pamela M. Bush,

Commission Secretary.

[FR Doc. E7–17611 Filed 9–5–07; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. OR07–20–000; IS07–229–000 (Not Consolidated)]

BP West Coast Products LLC Complainant, v. SFPP, L.P. Respondent. SFPP, L.P.; Notice of Complaint

August 28, 2007.

Take notice that on August 22, 2007, BP West Coast Products LLC (BP) tendered for filing a Complaint against SFPP, L.P. (SFPP) challenging SFPP's

2007 index rate increases as unjust and unreasonable under section 1(5) of the Interstate Commerce Act. BP requests that the Commission review and investigate SFPP's index rate increases; set the proceeding for an evidentiary hearing to determine just and reasonable rates for SFPP; require the payment of refunds and reparations starting two years before the date of complaint for all rates; and award such other relief as is necessary and appropriate under the Interstate Commerce Act.

BP states that copies of the Complaint were served on SFPP.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 11, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–17552 Filed 9–5–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–437–000]

Centerpoint Energy Gas Transmission Company; Notice of Request Under Blanket Authorization

August 27, 2007.

Take notice that on August 15, 2007, CenterPoint Energy Gas Transmission Company (CenterPoint), 1111 Louisiana Street, Houston, Texas, filed in Docket No. CP07–437–000 a prior notice request pursuant to sections 157.205 and 157.210 of the Commission's regulations under the Natural Gas Act (NGA), and CenterPoint's blanket certificate issued in Docket No. CP82–384–000 on September 1, 1982,[1] and amended in Docket No. CP82–384–001 on February 10, 1983.[2] Centerpoint seeks authorization to construct, own, and operate a new compressor station on Line AC located near the city of Cove in Polk County, Arkansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Specifically, CenterPoint proposes to install a Solar Mars 100/C652 Turbine driven Centrifugal Compressor Package and associated ancillary equipment within a 38.5 acre lot owned by CenterPoint. The total compression available will be 14,801 horsepower. The proposed facilities will provide CenterPoint's customers with flexible access to traditional Mid-continent gas supplies and will enhance CenterPoint's infrastructure needed to support current and future natural gas development and production activities across CenterPoint's system. CenterPoint estimates that total construction costs will be approximately $26,257,504.

Any questions regarding this application should be directed to Michelle Willis, Supervisor, Rates & Regulatory, CenterPoint Energy Gas Transmission Company, P.O. Box 21734, Shreveport, Louisiana 71151, or call (318) 429–3708.

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Comment Date: October 27, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–17547 Filed 9–5–07; 8:45 am]

BILLING CODE 6717–01–P

[1] 20 FERC ¶ 62,408 (1982).

[2] 22 FERC ¶ 61,148 (1983).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP07–439–000]

Chestnut Ridge Storage, LLC; Notice of Application

August 28, 2007.

Take notice that on August 24, 2007, Chestnut Ridge Storage, LLC (Chestnut Ridge), 10000 Memorial Drive, Suite 200, Houston, Texas 77024–3410, filed in Docket No. CP07–439–000, a petition for Exemption of Temporary Acts and Operations from Certificate Requirements, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure, and section 7(c)(1)(B) of the Natural Gas Act, seeking approval of an exemption from certificate requirements to perform temporary activities in order to drill stratigraphic test wells and perform other activities to assess the optimal manner in which to develop an underground natural gas storage facility in the West Summit Field in Fayette County, Pennsylvania, Preston County, West Virginia and Monongalia County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be

viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to James F. Bowe, Jr., Dewey Ballantine, LLP, 975 F Street, NW., Washington, DC 20004, at (202) 862–1000, or by fax at (202) 862–1093, or e-mail *jbowe@deweyballantine.com.*

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: September 4, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–17556 Filed 9–5–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–91–000]

Pacific Gas and Electric Company; Petition for Declaratory Order

August 28, 2007.

Take notice that on August 16, 2007, Pacific Gas and Electric Company (PG&E) filed a Petition for Declaratory Order requesting that the Commission extend the terms of its Order issued January 28, 2004, to continue the revenue sharing mechanism for secondary products and services which generate revenue from certain non-tariffed uses of PG&E's jurisdictional electric transmission assets.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 17, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–17554 Filed 9–5–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–93–000]

Sharyland Utilities, L.P.; Petition for Declaratory Order

August 28, 2007.

Take notice that on August 24, 2007, Sharyland Utilities, L.P. filed a Petition for Declaratory Order concerning the scope of the Commission's jurisdiction under the Federal Power Act in connection with the use of an asynchronous interconnection between the Electric Reliability Council of Texas and the Commission Federal de Electricidad of Mexico.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 10, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–17553 Filed 9–5–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–62–000]

Southern California Edison Company; Petition for Declaratory Order

August 28, 2007.

Take notice that on August 16, 2007, Southern California Edison Company (SCE), filed a response to the Commission's deficiency letter issued on July 17, 2007, for Incentive Rate Treatment for three major transmission projects the SCE is proposing to construct.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 6, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–17555 Filed 9–5–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL07–92–000]

Wabash Valley Power Association, Inc. Complainant v. Midwest Independent Transmission System Operator, Inc. Respondent; Notice of Complaint

August 27, 2007.

Take notice that on August 24, 2007, Wabash Valley Power Association, Inc. (Wabash Valley), pursuant to Rule 206 of the Rules of Practice and Procedure and section 206 of the Federal Power Act, filed a Second Conditional Complaint and Motion to Consolidate against Midwest Independent Transmission System Operator, Inc. (Midwest ISO), alleging that the Revenue Sufficiency Guarantee charge allocation provisions of Midwest ISO's tariff are unjust, unreasonable and unduly discriminatory, and therefore must be revised. Wabash valley requests that the Commission establish the earliest possible refund-effective date with respect to the necessary revisions.

Wabash Valley states that copies of the Complaint were served upon the contacts for Midwest ISO as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically

should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 13, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–17546 Filed 9–5–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM05–17–000; RM05–25–000]

Preventing Undue Discrimination and Preference in Transmission Service; Notice of Technical Conferences

August 28, 2007.

Take notice that Commission staff will convene technical conferences on the following dates in the following cities to review and discuss the draft proposals regarding transmission planning required by the ''Order Extending Compliance Action Date and Establishing Technical Conferences'' issued in this proceeding on July 27, 2007.[1] Staff expects all transmission providers to participate in the technical conference for their particular region, although all interested persons, including other transmission providers, regional representatives, and transmission customers are invited to attend each conference. In the July 27 Order, the Commission extended until December 7, 2007 the date for transmission providers to submit an Attachment K to their Open Access Transmission Tariff incorporating the transmission planning principles and concepts adopted in Order No. 890.[2] To facilitate the development of these filings, the Commission also required transmission providers to post a draft of their Attachment K on or before September 14, 2007, and established a second round of staff technical conferences,[3] which is being scheduled in this notice, for the purpose of stakeholder review of those drafts.[4]

Date	Location	Transmission provider participants
October 1–2, 2007	Atlanta, GA	Entities located in the states represented in the Southeastern Association of Regulatory Utility Commissioners (SEARUC) and entities located in the Southwest Power Pool footprint. Those wishing to participate as a panelist and provide feedback on the proposals should submit a request form by close of business on September 21, 2007, located at: *https://www.ferc.gov/whats-new/registration/transmission-planning-speaker-form.asp.*
October 15–16, 2007	Boston, MA	Entities located within the Midwest ISO, PJM, New York ISO, and ISO New England footprints, MAPP/MAPP Participants, and adjacent areas. Those wishing to participate as a panelist and provide feedback on the proposals should submit a request form by close of business on September 28, 2007, located at: *https://www.ferc.gov/whats-new/registration/transmission-planning-speaker-form.asp.*

A further notice with a detailed agenda for each conference will be issued in advance of the conferences. Details about locations of meetings will be provided at that time. In the event a transmission provider is uncertain as to which technical conference is the appropriate forum for discussion of its draft proposal, such transmission providers should contact Commission staff in advance to discuss the matter.

For further information about these conferences, please contact:

Tony Ingram (Technical Information), Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8938. *Tony.Ingram@ferc.gov.*

John Cohen (Legal Information), Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8705. *John.Cohen@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E7–17551 Filed 9–5–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0286; FRL–8463–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; EPA's In-Use Vehicle and Engine Testing Programs; EPA ICR No. 0222.08, OMB Control No. 2060–0086

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA)(44 U.S.C. 3501 et seq.), this document announces that an Information

[1] *Preventing Undue Discrimination and Preference in Transmission Service*, 120 FERC ¶ 61,103 (2007) at P 2 & 5 (July 27 Order).

[2] *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 FR 12266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 at p 444–602 (2007), *reh'g pending.*

[3] The first round of staff technical conferences were held on: June 4–7, 2007 in Little Rock, AR, covering the southeast including Southwest Power Pool and its members; June 13, 2007 in Park City, UT, covering the northwest; June 26, 2007 in Phoenix, AZ, covering the southwest and California; and June 28–29, 2007 in Pittsburgh, PA, covering the ISO New England, New York ISO, PJM Interconnection, Midwest ISO, and Mid-Continent Area Power Pool (MAPP) subregions.

[4] Additionally, on August 2, 2007, Commission staff placed in the record of this proceeding a White Paper to assist transmission providers in their development of tariff language consistent with the requirements of Order No. 890.

Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before October 9, 2007.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2007–0286, to (1) EPA online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket, Mailcode 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Lynn Sohacki, Compliance and Innovative Strategies Division, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4851; fax number: 734–214–4869; e-mail address: *sohacki.lynn@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On April 20, 2007 (72 FR 19925), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2007–0286, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742.

Use EPA's electronic docket and comment system at *www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: EPA's In-Use Vehicle and Engine Testing Programs.

ICR numbers: EPA ICR No. 0222.08, OMB Control No. 2060–0086.

ICR Status: This ICR is scheduled to expire on September 30, 2007. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA has ongoing programs to evaluate the emission performance of in-use light-duty (passenger car and light truck) motor vehicles, heavy-duty trucks, and nonroad vehicles and engines. These are referred to collectively as EPA's in-use vehicle testing programs. They operate in conjunction with testing of prototype vehicles prior to use (manufacturer and EPA confirmatory testing for certification) and the mandatory manufacturer's in-use testing program (IUVP) for light-duty vehicles. They derive from the Clean Air Act's charge that EPA insure that motor vehicles comply with emissions requirements throughout their useful lives. The primary purpose of the program is information gathering. Nevertheless, EPA can require a recall if it receives information, from whatever source, including in-use testing, that a ''substantial number'' of any class or category of vehicles or engines, although properly maintained and used, do not conform to the emission standards, when in actual use throughout their useful life.

The program has two components: light-duty, and heavy-duty and nonroad. The light-duty program recruits approximately 50 classes totaling 150 cars and light-trucks for in-use testing, at EPA's testing facility yearly. This total may be supplemented by recruitment for ''special investigations'' that vary in number but are estimated to total 25 vehicles a year. Participation is strictly voluntary. Potential participants are identified from state vehicle registration records and sent a solicitation letter with a card and envelope that can be returned. Those who indicate a wish to participate are contacted in order for a followup telephone survey until three vehicles are identified. Owners verify the survey information when they deliver their vehicles to EPA, voluntarily provide maintenance records for copying, and receive a loaner car or a cash incentive.

The reporting burden for the heavy-duty and in-use component primarily involves recruiting heavy-duty trucks from operators of fleets. All testing is done by installing portable emissions monitoring devices on the vehicles during a test period at the fleet location or at testing facilities. Some other heavy-duty and non-road engines for testing may be recruited in a similar manner. One hundred and twenty-six heavy-duty vehicles and off-road vehicles and engines were tested in Fiscal Year 2006, the most recent year for which information is available. Again, all participation is strictly voluntary.

These programs are described in greater detail in the Supporting Statement, which is part of the Docket.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.14 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: individual and fleet owners of motor vehicles and engines.

Estimated Number of Respondents: 4375.

Frequency of Response: once per respondent.

Estimated Total Annual Hour Burden: 619.

Estimated Total Annual Cost: $46,395, including $0 annualized capital or O&M costs.

Changes in the Estimates: There is an increase of 19 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to an updated and more particularized count of in-use testing numbers and to distinguishing between, and recalculating the burdens for, the initial solicitations for participation and subsequent participation in the light-duty program.

Dated: August 29, 2007.

Sara Hisel-McCoy,

Acting Director, Collection Strategies Division.

[FR Doc. E7–17621 Filed 9–5–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8464–7]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Consent Decree; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree, to address a lawsuit filed by Sierra Club (''Plaintiff'') in the United States District Court for the Western District of Wisconsin: *Sierra Club* v. *Johnson,* No. 07–C–0154–S (W.D. WI). Plaintiff filed a deadline suit to compel the Administrator to respond to two administrative petitions seeking EPA's objection to CAA Title V operating permits issued by the Wisconsin Department of Natural Resources to Louisiana Pacific Corporation's Tomahawk facility and the University of Wisconsin-Madison's Walnut Street Heating Plant. Under the terms of the proposed consent decree, EPA has agreed to respond to Plaintiff's petitions within ten (10) days after the entry of this decree by the Court, and Plaintiff has agreed to dismiss their suit with prejudice. In addition, EPA has agreed to pay Plaintiff a specified amount in settlement for attorneys' fees in this matter.

DATES: Written comments on the proposed consent decree must be received by October 9, 2007.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2007–0885, online at *http://www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov;* mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Amy Huang Branning, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564–1744; fax number (202) 564–5603; e-mail address: *branning.amy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

This proposed consent decree would resolve a lawsuit seeking a response to two administrative petitions to object to CAA Title V permits issued by the Wisconsin Department of Natural Resources to the Louisiana Pacific Corporation's Tomahawk facility and the University of Wisconsin-Madison's Walnut Street Heating Plant. The petitions on these two permits were filed on May 9, 2006 and May 23, 2005 respectively. Under the proposed consent decree, EPA has agreed to respond to the Plaintiff's petition within ten (10) days after the entry of this decree by the Court and to pay a specified amount in settlement of the Plaintiff's claims for attorneys' fees. The consent decree becomes an order of the Court upon entry, and, consistent with the terms of the consent decree, the case shall be dismissed with prejudice after EPA takes final action on Plaintiffs' petitions and pays the specified amount in the consent decree in settlement of the Plaintiff's claims for attorneys' fees.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment submitted, that consent to this consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How Can I Get A Copy Of the Consent Decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2007–0885) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use the *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted

material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through *www.regulations.gov,* your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: August 29, 2007.

Richard B. Ossias,

Associate General Counsel.

[FR Doc. E7–17637 Filed 9–5–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8463–8]

Proposed CERCLA Administrative Cost Recovery Settlement; Barbara Lastrina and Joseph Gosselin, Somers Plating Site, Somers, CT

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past costs concerning the Somers Plating Superfund Site in Somers, Connecticut with the following settling parties: Barbara Lastrina and Joseph Gosselin. The settlement requires the settling parties to pay 40% of the Net Sales Proceeds of the transfer of the property to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

The Agency's response to any comments received will be available for public inspection at One Congress Street, Boston, MA 02114–2023.

DATES: Comments must be submitted by October 9, 2007 of this notice.

ADDRESSES: Comments should be addressed to Michelle Lauterback, Enforcement Counsel, U.S. Environmental Protection Agency, Region 1, One Congress Street, Suite 1100 (SES), Boston, Massachusetts 02114–2023 (Telephone No. 617–918–1774) and should refer to: In re: Somers Plating Superfund Site, U.S. EPA Docket No. 01–2007–0057.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed settlement may be obtained from Michelle Lauterback, Enforcement Counsel, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100 (SES), Boston, Massachusetts 02114–2023 (Telephone No. 617–918–1774; E-mail *lauterback.michelle@epa.gov*).

Dated: August 29, 2007.

Arthur Johnson,

Acting Director, Office of Site Remediation and Restoration.

[FR Doc. E7–17636 Filed 9–5–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval

August 30, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before October 9, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser of Office of Management and Budget (OMB), via

Internet at *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167 and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC.

If you would like to obtain or view a copy of this information collection, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918 or via the Internet at *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0179.

Title: Sections 73.1590, Equipment Performance Measurements.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 13,049.

Estimated Time per Response: 0.5 hours—18 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 12,335 hours.

Total Annual Cost: None.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.1590 requires licensees of AM, FM and TV stations to make audio and video equipment performance measurements for each main transmitter. These measurements and a description of the equipment and procedures used in making the measurements must be kept on file at the transmitter or the remote control point for two years. In addition, this information must be made available to the FCC upon request.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E7–17608 Filed 9–5–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011409–016.

Title: Transpacific Carrier Services Inc. Agreement.

Parties: American President Lines, Ltd. and APL Co. PTE Ltd.; China Shipping Container Lines Co., Ltd.; CMA CGM S.A.; COSCO Container Lines Company, Ltd.; Evergreen Lines Joint Service Agreement; Hanjin Shipping Co., Ltd.; Hapag-Lloyd AG; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha, Ltd.; Orient Overseas Container Line Limited; and Yang Ming Marine Transport Corp.

Filing Party: David F. Smith, Esq; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment would delete China Shipping Container Lines Co., Ltd. as a party to the agreement and add Zim Integrated Shipping Services, Ltd.

Agreement No.: 011870–006.

Title: Indian Subcontinent Discussion Agreement.

Parties: CMA CGM S.A.; Emirates Shipping Line FZE; MacAndrews & Company Limited; Shipping Corporation of India; United Arab Shipping Company (S.A.G.); and Zim Integrated Shipping Services, Ltd.

Filing Party: David F. Smith, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment removes Evergreen Line Joint Service Agreement and NYK as parties to the agreement.

Agreement No.: 011961–002.

Title: The Maritime Credit Agreement.

Parties: Alianca Navegacao e Logistica Ltda. & Cia; A.P. Moller-Maersk A/S; Atlantic Container Line AB; China Shipping Container Lines Co., Ltd.; CMA CGM, S.A.; Companhia Libra de Navegacao; Compania Sudamericana de Vapores, S.A.; COSCO Container Lines Company Limited; Crowley Liner Services, Inc.; Dole Ocean Cargo Express; Hamburg-Süd; Hapag-Lloyd AG; Hoegh Autoliners A/S; Independent Container Line Ltd.; Compania Libra de Navegacion Uruguay S.A.; Norasia Container Lines Limited; Safmarine Container Lines N.V.; Tropical Shipping & Construction Co., Ltd.; United Arab Shipping Company (S.A.G.); Wallenius Wilhelmsen Logistics AS; and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment would delete Crowley Liner Services, Inc. as a party to the Agreement, add Kawasaki Kisen Kaisha, Ltd. as a party, and correct the address of Hoegh Autoliners.

Agreement No.: 011999–001.

Title: Hapag-Lloyd/NYK Slot Exchange Agreement.

Parties: Hapag-Lloyd AG and Nippon Yusen Kaisha, Ltd.

Filing Party: David F. Smith, Esq.; Sher & Blackwell LLP; 1850 M Street, NW; Suite 900; Washington, DC 20036.

Synopsis: The amendment would add Pakistan to the geographic scope of the agreement. The parties request expedited review.

Dated: August 31, 2007.

By order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–17632 Filed 9–5–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Rescission of Order of Revocation

Notice is hereby given that the Order revoking the following license is being rescinded by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License Number: 003847F.

Name: B.C. International Trading, Inc.

Address: 998 Arthur Kill Road, Staten Island, NY 10312.

Order Published: FR: 08/15/07 (Volume 72, No. 157 Pg. 45814).

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E7–17615 Filed 9–5–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

ORO Cargo Express Corp., 1735 NW 21st Street, Miami, FL 33142. *Officers:* Osman O. Orozco, President, (Qualifying Individual), Orlando Orozco, Vice President.

Mejia Cargo Express, Inc., 1370 Palm Ave., Hialeah, FL 33010. *Officer:* Mauren Jeannet Horney, President, (Qualifying Individual).

Atlantic Global, LLC, 125 Wexford Way, Basking Ridge, NJ 07920. *Officer:* Jeff C. Lelchuk, President, (Qualifying Individual).

Trans Knights, Inc., 301 W. Valley Blvd., Suite #203, San Gabriel, CA 91776. *Officer:* Rachel Zhu, CEO, (Qualifying Individual).

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

United Transport Services Intl., Inc., 8013 NW 66th Street, Miami, FL 33166. *Officers:* Eduardo De Quesada, President, (Qualifying Individual), Jose Ricardo Ospina, Vice President.

Day Freight International, Inc., 2238 Larch Street, Wantagh, NY 11793. *Officer:* Elizabeth A. Day, CEO, (Qualifying Individual).

CIMA Cargo Corp., 14270 S.W. 33rd Street, Miami, FL 33172. *Officer:* Maribel Moreira, President, (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Argosy International Inc., 225 West 34th Street, Suite 508, New York, NY 10122. *Officers:* William D. McCutchen, V.P., Supply Chain Mgr., (Qualifying Individual), William Justice, V.P. Gen. Mgr.

MG Forwarding, LLC, 2919 SW 17th Street, Miami, FL 33145. *Officer:* Mariana Gonzalez, President, (Qualifying Individual).

Amid Logistics, LLC, 2275 East Highway 100, Bldg. 11H, Bunnel, FL 32110. *Officer:* Dmitriy S. Deych, Director, (Qualifying Individual).

Dated: August 31, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–17613 Filed 9–5–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: Background.

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for comment on information collection proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before November 5, 2007.

ADDRESSES: You may submit comments, identified by Reg V: 7100–0308 by any of the following methods:

- Agency Web Site: http://www.federalreserve.gov. Follow the instructions for submitting comments at http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.
- Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.
- E–mail: regs.comments@federalreserve.gov. Include docket number in the subject line of the message.
- FAX: 202/452–3819 or 202/452–3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

All public comments are available from the Board's web site at www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, N.W.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission including, the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public website at: http://www.federalreserve.gov/boarddocs/reportforms/review.cfm or may be requested from the agency clearance officer, whose name appears below.

Michelle Shore, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following reports:

1. Report title: Disclosure requirements associated with Regulation V

Agency form number: Reg V

OMB control number: 7100–0308 [1]

Frequency: On occasion

Reporters: Financial institutions [2]

Annual reporting hours: 7,500 hours

Estimated average hours per response: .25 hours

Number of respondents: 30,000

General description of report: This information collection is mandatory (15 U.S.C. § 1681s–2(a)(7)). Because the records are maintained at state member banks and the notices are not provided to the Federal Reserve, no issue of confidentiality arises under the Freedom of Information Act.

Abstract: Financial institutions that (1) extend credit and regularly and in the ordinary course of business furnish information to a nationwide consumer reporting agency, and (2) furnish negative information to such an agency regarding credit extended to a customer must provide a clear and conspicuous notice to the customer, in writing, about furnishing this negative information.

Board of Governors of the Federal Reserve System, August 30, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–17565 Filed 9–5–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 1, 2007.

A. Federal Reserve Bank of New York (Anne MacEwen, Bank Applications Officer) 33 Liberty Street, New York, New York 10045–0001:

1. M&T Bank Corporation, Buffalo, New York (''M&T''); to acquire 100 percent of the voting shares of, and merge with, Partners Trust Financial Group (''Partners Trust''), and thereby indirectly acquire Partners Trust Municipal Bank, both of Utica, New York.

In connection with this application, M&T also has applied to acquire Partners Trust Bank; Partners NEWPRO, Inc.; Partners Preferred Capital Corporation; Partners Trust Investment Services, Inc.; BSB Mortgage Corporation; BSB Financial Services, Inc.; Groupinsure Brokerage Holding, Inc.; and SBU Mortgage Corporation, all of Utica, New York, and thereby engage in operating a federal savings bank, pursuant to section 225.28(b)(4)(ii); in extending credit and servicing loans, pursuant to section 225.28(b)(1); in asset management, servicing, and collection activities, pursuant to section 225.28(b)(2)(vi); and in securities brokerage activities, pursuant to section 225.28(b)(7)(i), all of Regulation Y.

Board of Governors of the Federal Reserve System, August 31, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–17579 Filed 9–5–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice of a decision to designate a class of employees at the Rocky Flats Plant, Golden, Colorado, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On August 6, 2007, the Secretary of HHS designated the following class of employees as an addition to the SEC:

Employees of the Department of Energy (DOE), its predecessor agencies, or DOE contractors or subcontractors who were monitored or should have been monitored for neutron exposures while working at the Rocky Flats Plant in Golden, Colorado, for a number of work days aggregating at least 250 work days from April 1, 1952, through December 31, 1958, or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation will become effective on September 5, 2007, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

[1] The proposed information collections associated with the following notice of proposed rulemakings: Fair Credit Reporting Affiliate Marketing Regulations (Docket No R1203) published in the Federal Register July 15, 2004, and Identity Theft Red Flags and Address Discrepancies under the Fair and Accurate Credit Transactions Act of 2003 (Docket No R1255) published in the Federal Register July 18, 2006, will be assigned OMB No. 7100–0308 once the rules have been finalized during the 4th quarter of 2007.

[2] Under section 217, the term ''financial institution'' is defined broadly to have the same meaning as in the privacy provisions of the Gramm–Leach–Bliley Act of 1999 (GLB Act), which defines financial institution to mean ''any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956,'' whether or not affiliated with a bank. 15 U.S.C. 6809(3).

Dated: August 30, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E7–17617 Filed 9–5–07; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice of a decision to designate a class of employees at the Rocky Flats Plant, Golden, Colorado, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On August 6, 2007, the Secretary of HHS designated the following class of employees as an addition to the SEC:

Employees of the Department of Energy (DOE), its predecessor agencies, or DOE contractors or subcontractors who were monitored or should have been monitored for neutron exposures while working at the Rocky Flats Plant in Golden, Colorado, for a number of work days aggregating at least 250 work days from January 1, 1959, through December 31, 1966, or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation will become effective on September 5, 2007, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

Dated: August 30, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E7–17618 Filed 9–5–07; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health

Determination Concerning a Petition to Add a Class of Employees to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice of a determination concerning a petition to add a class of employees at the Rocky Flats Plant, Golden, Colorado, to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384q. On August 6, 2007, the Secretary of HHS determined that the following employees do not meet the statutory criteria for addition to the SEC as authorized under EEOICPA:

Department of Energy employees or its contractor or subcontractor employees at the Rocky Flats plant in Golden, Colorado, who were exposed to radiation dose from 1967 through 2005 and who were exposed to any radiation dose other than neutron dose from 1952 through 1966.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

Dated: August 30, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E7–17620 Filed 9–5–07; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Medicaid Program: Notice of Single Source Grant Award to the State of Louisiana for the Grant Entitled ''Deficit Reduction Act—Hurricane Katrina Healthcare Related Primary Care Access Stabilization Grant''

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

Funding Amount: $100,000,000.

Period of Performance: July 23, 2007 through September 30, 2010.

CFDA: 93.776.

Authority: Section 6201(a)(4) of the Deficit Reduction Act of 2005 (DRA).

Purpose: This grant program has been made available to the State of Louisiana to restore and expand access to primary care, including primary mental health care, in the Greater New Orleans area. This area is facing inadequate primary care access as a result of Hurricane Katrina and its subsequent floods causing a unique negative impact on the low income and uninsured populations of Greater New Orleans. Funding under this grant program must be used by the State of Louisiana to assist it to make payments for purposes of addressing primary health care access issues in Greater New Orleans' ''impacted communities'', defined for purposes of this grant, to be those four parishes located in the State of Louisiana's Region 1, as defined by the Louisiana Department of Health and Hospitals, namely, Orleans, Jefferson, St. Bernard, and Plaquemines. This grant includes $4,000,000 for the City of New Orleans Health Department to help restore its ability to meet its primary care mission in new and emerging neighborhoods being repopulated.

The grant funds must be used only for funding eligible primary care clinics that: Provide at least one or more of the core primary care services with its own practitioners in an outpatient setting; formally commit to provide care to all individuals, regardless of ability to pay; are either a public or not-for-profit (NFP) entity that is sustainable; and demonstrate commitment to practice in the Greater New Orleans area for the long term. Because of the urgent need to get funds out as timely as possible under less than ideal local circumstances, the State of Louisiana has selected a locally based partner (that was able to meet certain criteria) to oversee and monitor local conditions,

and run the grant day-to-day. Administrative expenses will be capped at .5 percent for the State and 5 percent for the local partner.

The State of Louisiana, in consultation with its local partner, has flexibility subject to approval by the Centers for Medicare & Medicaid Services (CMS) in determining the funding allocation methodology to grantee clinics/subawardees, as long as it includes a standardization of ''units of care'' across all grantee clinics, and includes a base award and supplementary payments that meet the intent of the grant.

This award was made based on the authority granted by section 6201 of the Deficit Reduction Act (DRA). In particular, section 6201(a)(4) of the DRA provides authority to the Secretary, Department of Health and Human Services (DHHS), to make payments to States to restore access to health care in communities impacted by Hurricane Katrina.

Under the authority of section 6201(a)(4) of the DRA of 2005, the Secretary has invoked his authority to restore health care in impacted communities affected by Hurricane Katrina by offering this unique funding opportunity to stabilize primary health care access to the Greater New Orleans area, which is facing inadequate primary care access as a result of Hurricane Katrina and its subsequent floods.

Louisiana is the only State with the knowledge and ability to administer a grant designed to affect impacted Louisiana communities. For this reason, the Secretary has directed CMS to offer a single-source award to the State of Louisiana to help strengthen and increase primary care access to the Greater New Orleans area and by helping to increase the supply of health care providers negatively impacted as a result of this hurricane.

FOR FURTHER INFORMATION CONTACT: Wendy J. Taparanskas, Ph.D., Health Insurance Specialist, Finance, Systems, and Budget Group, Center for Medicaid and State Operations, Centers for Medicare & Medicaid Services, Mail Stop S3–13–15, 7500 Security Boulevard, Baltimore, MD 21244, (410) 786–5245.

Authority: Section 6201(a)(4) of the Deficit Reduction Act of 2005 (DRA).

Dated: August 30, 2007.

Herb B. Kuhn,

Acting Deputy Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E7–17560 Filed 9–5–07; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007N–0218]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Adverse Event Pilot Program for Medical Products (Formally Medical Device Adverse Event Reporting Program)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 9, 2007.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974, or e-mailed to *baguilar@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0471. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1427.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance:

Adverse Event Pilot Program for Medical Products—21 U.S.C. 360(i) (OMB Control Number 0910–0471)—Extension

Under section 519 of the Food, Drug and Cosmetic Act (the act) (21 U.S.C. 360(i)), FDA is authorized to require: Manufacturers to report medical device related deaths, serious injuries, and malfunctions; and user facilities to report device-related deaths directly to manufacturers and FDA, and to report serious injuries to the manufacturer. Section 213 of the FDA Modernization Act of 1997 (FDAMA), amended section 519(b) of the act (21 U.S.C. 360 i(b)) relating to mandatory reporting by user facilities of deaths and serious injuries and serious illnesses associated with the use of medical devices. This amendment legislated the replacement of universal user facility reporting by a system that is limited to a ''. . . subset of user facilities that constitutes a representative profile of user reports'' for device related deaths and serious injuries. This amendment is reflected in section 519(b)(5)(A) of the act. The current universal reporting system remains in place during the pilot stages of the new program, and until FDA implements the new national system by regulation. This legislation provides FDA with the opportunity to design and implement a national surveillance network, composed of well-trained clinical facilities, to provide high quality data on medical devices in clinical use. This system is called the Medical Product Safety Network (MedSun).

FDA is continuing to conduct a pilot of the MedSun system before the agency issues a regulation to change from universal mandatory reporting for medical device user facilities to reporting by a representative sample of facilities. This data collection has been ongoing since February 20, 2002, and this notice is for continuation of this data collection.

FDA is seeking OMB clearance to continue to use electronic data collection to obtain the information on the 3500A Form related to medical devices and tissue products from the user facilities participating in MedSun, to obtain a demographic profile of the facilities, and to pilot a few additional questions which will permit FDA to better understand the cause of the reported adverse event. During the pilot program, participants will be asked to complete an annual outcome measures form to aid FDA in evaluating the effectiveness of the program. Participation in this pilot is voluntary and currently includes 400 facilities and over 100 beds. The use of an interactive electronic data collection system is easier and more efficient for the participating user facilities to use than the alternative paper system. The paper form takes approximately 1 hour to complete and the electronic version takes approximately 45 minutes or less to complete. Much of the data which must be filled in by hand on the paper system is automatically filled in by the electronic version.

In addition to collecting data on the electronic adverse event report form, MedSun also collects data electronically in the Device-Safety Exchange (DS-X).

This data collection is also voluntary, and is an FDA moderated site. MedSun sites may send in ''success stories'' describing quality improvement initiatives they have implemented to improve patient safety with medical products and also may send in medical product related questions to which other sites may respond. The maximum time it takes to enter a story, or write or respond to a question, is 30 minutes.

In the **Federal Register** of June 13, 2007 (72 FR 32670), FDA published a 60-day notice requesting public comment on the information collection provisions. In response to that notice, no comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Section of Act	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
519(b) Facilities participating in the electronic reporting of adverse event programs.	400	15	6,000	.75	4,500
Section 519 (b) Facilities participating in DS-X (not used by all sites)	200	5	1,000	.50	500
Total					5,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimate for the electronic reporting of adverse events is based on the number of facilities currently participating in MedSun (400) and the number of sites (50), expected to be added to the program over the next 3 years. The current average number of reports per site is seven reports annually. For purposes of the renewal for this data collection, we are estimating an average of 15 reports per site annually. This increase is expected because MedSun is working to promote reporting in general from the sites, as well as promoting reporting from specific parts of the hospitals, such as the pediatric intensive care units, electrophysiology laboratories, and the hospital laboratories. Thus, the total annual responses is calculated to be 6,000 (400 facilities x 15 data entries = 6,000). The participating MedSun reporters tell FDA that it typically takes 20 to 45 minutes to fill out the on-line form. Using the high end of that time frame, the total burden estimate for facilities participating in the electronic reporting of adverse event programs, is estimated to be 4,500 hours (6,000 report entries x .75 hours = 4,500 hours).

Determination of burden estimate for the DS-X portion of MedSun: All sites do not use this part of the software. To determine the total annual responses for DS-X, 200 participants are multiplied by the number of times each will access DS-X. Thus the total annual responses are calculated to be 1,000 reports (200 x 5 = 1,000). It typically takes an average of 30 minutes to enter data into the DS-X, given that there are various types of data entries which are possible, some of which are lengthier than others. The number of burden hours for DS-X is determined by multiplying the expected 1,000 times the site will be accessed by the average amount of time it takes to make a DS-X entry (30 minutes). Thus the total burden estimate for DS-X is calculated to be 500 hours (1,000 x 0.5 = 500). Therefore, the combined total burden estimate for MedSun and DS-X is calculated to be 5,000 hours (4,500 + 500 = 5,000).

Dated: August 29, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–17562 Filed 9–5–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007N–0329]

Determination That MILTOWN (Meprobamate) Tablets and Five Other Drug Products Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that the six drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to the drug products, and it will allow FDA to continue to approve ANDAs that refer to the products.

FOR FURTHER INFORMATION CONTACT: Mary Catchings, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20855,301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a) (21 CFR 314.161(a)), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness: (1) Before an ANDA that refers to that listed drug may be approved or (2) whenever a listed drug is voluntarily withdrawn from sale, and ANDAs that refer to the listed drug have been approved. Section 314.161(d) provides that if FDA determines that a listed drug was removed from sale for safety or effectiveness reasons, the agency will initiate proceedings that could result in the withdrawal of approval of the ANDAs that refer to the listed drug.

FDA has become aware that the drug products listed in the table in this document are no longer being marketed.

NDA No.	Drug	Applicant
9–698	MILTOWN (meprobamate) Tablets, 200 milligrams (mg) and 400 mg	Medpointe Pharmaceuticals, 265 Davidson Ave., Suite 300, Somerset, NJ 08873–4120
17–481	VERMOX (mebendazole) Chewable Tablets, 100 mg	McNeil Consumer & Specialty Pharmaceuticals, 7050 Camp Hill Rd., Fort Washington, PA 19034–2999
18–226	BUMEX (bumetanide) Injection, 0.25 mg/milliliter	Roche Laboratories, Inc., 340 Kingsland St., Nutley, NJ 07110–1199
20–463	NASALCROM (cromolyn sodium) Spray, 5.2 mg/spray	Pfizer Consumer Healthcare, 201 Tabor Rd., Morris Plains, NJ 07950
21–203	TRICOR (fenofibrate) Tablets, 54 mg and 160 mg	Abbott Laboratories, 200 Abbott Park Rd., D–89J45–2, Abbott Park, IL 60064–6133
50–517	MEFOXIN (cefoxitin) for Injection, 10 grams/vial	Merck & Co., Inc., Sumneytown Pike, BLA–20, P.O. Box 4, West Point, PA 19486

FDA has reviewed its records and, under § 314.161, has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will continue to list the drug products listed in this document in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. Approved ANDAs that refer to the NDAs listed in this document are unaffected by the discontinued marketing of the products subject to those NDAs. Additional ANDAs for the products may also be approved by the agency if they comply with relevant legal and regulatory requirements. If FDA determines that labeling for these drug products should be revised to meet current standards, the agency will advise ANDA applicants to submit such labeling.

Dated: August 29, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–17566 Filed 9–5–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the agency; (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.

Proposed Project: Free Clinic Federal Tort Claims Act (FTCA) Deeming Application (OMB No. 0915–0293): Revision

Under 42 U.S.C. 233(o), and HRSA BPHC PIN 2004–24, the FTCA Free Clinic Program requires requesting free clinics to submit annual, renewal, and supplemental applications for the process of deeming qualified volunteer health care clinicians for FTCA malpractice insurance coverage. It is proposed that the FTCA application forms attached to the current PIN 2004–24 will be modified in several ways. These modifications include adding or clarifying the requirement to include the following information or data: (1) The annual number of the free clinic's patient visits which are covered by the FTCA malpractice coverage, (2) a list of any restrictions, suspensions, or disciplinary actions related to the medical licenses of the relevant volunteer health care clinicians, (3) clarifying the requirement to include a copy of the clinic's IRS 501(c)(3) documentation, (4) clarifying the need to detail any medical malpractice claims filed against any of the relevant volunteer health care clinicians or against the clinic for at least the last 10 years, and (5) a clarification of the need to file future annual renewal applications by August 1. It is anticipated that these modifications will add only incrementally to the time and effort required by the current OMB approved FTCA application forms.

The estimated annual burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Free Clinic FTCA Application	150	1	150	16	2,400
Total	150		150		2,400

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 29, 2007.

Alexandra Huttinger,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. E7–17577 Filed 9–5–07; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Underage Drinking Prevention: Town Hall Meeting Feedback Form—New

The Substance Abuse and Mental Health Services Administration's (SAMHSA), Center for Substance Abuse Prevention (CSAP) is proposing a 2008 Underage Drinking Prevention: Town Hall Meetings (THM) Initiative. In 2006, approximately 1,510 THMs were held by 1,262 community-based organizations (CBO) throughout the Nation. Each of the THMs strived to increase the understanding and awareness of underage alcohol use and its consequences by encouraging individuals, families, and communities to address the problem. The local THMs gave communities the opportunity to come together to learn more about the new research on underage alcohol use and its impact on both the individuals and the community. They also discussed how their communities can best prevent underage alcohol use.

To help guide decision making and planning for future THMs, SAMHSA/CSAP plans to conduct a process assessment of the THMs to be held in 2008. CBOs that agree to participate in this initiative will be asked to provide feedback about the implementation and results of the THMs in their community. This information collection is being implemented under the authority of Section 501(d) (4) of the Public Health Service Act (42 U.S.C. 290aa).

The contractor conducting this information collection will distribute a brief feedback form to all participating organizations. The form includes 14 items about the THM, including where, when, and who conducted the meeting, number of attendees, format of meeting, participants in the presentations, actions planned, media coverage of the meeting, composition of the audience, responses of the attendees, materials provided in the town hall meetings, and indications of increased awareness and increased involvement. In addition to distributing the feedback form, the contractor will be responsible for collecting, compiling, analyzing, and reporting on information requested through this feedback form.

The feedback form will be completed by an estimated 1,200 employees from CBOs. The paper form will take an average of 10 minutes (.167 hours) to review instructions, complete the form, and mail it in a self-addressed, stamped envelope. This burden estimate is based on comments from several potential respondents who reviewed the form and provided comments on how long it would take them to complete it.

Form name	Number of respondents	Responses per respondent	Hours per response	Total hour burden
Feedback Form	1,200	1	.167	200

Written comments and recommendations concerning the proposed information collection should be sent by October 9, 2007 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: August 29, 2007.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. E7–17581 Filed 9–5–07; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2007–0067]

Science and Technology Directorate; Submission for Review; New Information Collection Request for Support of SBIR/STTR Company Registration Form, Research Topic Recommendation Form, Ask a Question Form, Collaboration Opportunity Form, Reviewer Opportunity Form, E-mail Mailing List Signup Form, E-mail Mailing List Removal Form, Proposal Coversheet Form, Cost Proposal Form

AGENCY: Science and Technology Directorate, DHS.

ACTION: 30-day Notice and request for comment.

SUMMARY: The Department of Homeland Security (DHS) invites interested persons to comment on the following forms for the Small Business Innovation Research (SBIR) program: Company Registration (DHS FORM 10022), Research Topic Recommendation (DHS FORM 10018), Ask a Question (DHS FORM 10020), Collaboration Opportunity (DHS FORM 10021), Reviewer Opportunity (DHS FORM 10019), E-mail Mailing List Signup (DHS FORM 10016), E-mail Mailing List Removal (DHS FORM 10024), Proposal Coversheet (DHS FORM 10017), Cost Proposal (DHS FORM 10023) forms and

instructions (hereinafter ''Forms Package'') designed to collect proposal information from small businesses through the SBIR Web site. This notice and request for comments is required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Comments are encouraged and will be accepted until October 9, 2007. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: You may submit comments, identified by docket number [DHS–2007–0067], by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: ken.rogers@dhs.gov.* Include docket number [DHS–2007–0067] in the subject line of the message.
- *Mail:* Science and Technology Directorate, ATTN: OCIO/Kenneth D. Rogers, 245 Murray Drive, Bldg 410, Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Rogers (202) 254–6185 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: This request for comment was previously published in the **Federal Register** on June 15, 2007, for a 60-day public comment period ending August 14, 2007. No comments were received by DHS during the 60-day comment period. The purpose of this notice is to allow an additional 30 days for public comments. This notice and request for comments is required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DHS invites the general public to comment on the new information collection forms, as described below.

Interested parties can obtain copies of the Forms Package by calling or writing the point of contact listed above.

The Department of Homeland Security (DHS) Small Business Innovation Research (SBIR) program established under the Small Business Innovation Development Act of 1982 (Pub. L. 97–219) is responsible for collecting information used by the DHS SBIR/Small Business Technology Transfer (STTR) Program Office to: 1. Identify members of the public who qualify for, and are interested in participating in, the DHS SBIR/STTR Program; 2. Facilitate SBIR/STTR outreach to the public; 3. Provide the DHS SBIR/STTR Program Office necessary and sufficient information to determine that proposals submitted by the public to the DHS SBIR/STTR Program meet criteria for consideration under the program.

Please note that the Forms Package includes nine forms for collecting proposal information from small businesses. As explained herein, these separate forms are intended to reduce burden and improve records management by (1) allowing offerors to submit identifying information only once and then to reference that previously submitted identifying information in the submittal of proposals, (2) eliminating the cost and delay associated with the submission of proposals via non-electronic means, (3) facilitating timely review of proposals, and (4) improving the accuracy of records management for proposals. The Department is committed to improving its SBIR processes and urges all interested parties to suggest how these materials can further reduce burden while seeking necessary information under the Act.

DHS is particularly interested in comments that:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Suggest ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Suggest ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New information collection.

(2) *Title of the Form/Collection:* Company Registration Form, Research Topic Recommendation Form, Ask a Question Form, Collaboration Opportunity Form, Reviewer Opportunity Form, E-mail Mailing List Signup Form, E-mail Mailing List Removal Form, Proposal Coversheet Form, Cost Proposal Form.

(3) *Agency Form Number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Company Registration Form (DHS FORM 10022), Research Topic Recommendation Form (DHS FORM 10018), Ask a Question Form (DHS FORM 10020), Collaboration Opportunity Form (DHS FORM 10021), Reviewer Opportunity Form (DHS FORM 10019), E-mail Mailing List Signup Form (DHS FORM 10016), E-mail Mailing List Removal Form (DHS FORM 10024), Proposal Coversheet Form (DHS FORM 10017), Cost Proposal Form (DHS FORM 10023).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Business or other for-profit; the data collected through the SBIR Forms Package will be used to collect and review proposals from small businesses.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Company Registration Form—400 respondents annually/15 minutes per respondent, Research Topic Recommendation Form—120 respondents annually/15 minutes per respondent, Ask a Question Form—150 respondents annually/10 minutes per respondent, Collaboration Opportunity Form—100 respondents annually/15 minutes per respondent, Reviewer Opportunity Form—100 respondents annually/15 minutes per respondent, E-mail Mailing List Signup Form—300 respondents annually/10 minutes per respondent, E-mail Mailing List Removal Form—180 respondents annually/10 minutes per respondent, Proposal Coversheet Form—460 respondents annually/30 minutes per respondent, Cost Proposal Form—370 respondents annually/1 hour per respondent.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 885 burden hours.

Dated: August 29, 2007.

Kenneth D. Rogers,

Chief Information Officer, Science and Technology Directorate.

[FR Doc. E7–17570 Filed 9–5–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2007–28745]

Merchant Marine Personnel Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of meetings.

SUMMARY: On Tuesday, July 24, 2007, the Coast Guard published its intent to hold meetings of the Merchant Marine Personnel Advisory Committee. This

supplemental notice makes an addition to the previous one.

Agendas of Meetings

Agenda of Meeting on September 11, 2007 Originally Published at 72 FR 40321

In addition to addressing the Task Statements listed in the July 24, 2007, notice, a working group will address a new Task Statement concerning ''A Review of the Draft Navigation and Vessel Inspection Circular (NVIC) Concerning Medical and Physical Evaluation Guidelines for Merchant Mariner Credentials.'' The working group will make a report to the full committee on what has been accomplished in their meeting. No action will be taken on their report on this date.

Agenda of Meeting on September 12, 2007 Originally Published at 72 FR 40321

In addition to the agenda published in the July 24, 2007, notice, the committee may consider and vote on any recommendations from the working group deliberating the new Task Statement concerning ''Review of the Draft NVIC Concerning Medical and Physical Evaluation Guidelines for Merchant Mariner Credentials.''

Dated: August 24, 2007.

J. G. Lantz,

Director of National and International Standards, Assistant Commandant for Prevention—Operations.

[FR Doc. E7–17568 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2007–29141]

National Maritime Security Advisory Committee; Meeting

AGENCY: U.S. Coast Guard, DHS.

ACTION: Notice of Meeting via Teleconference.

SUMMARY: The National Maritime Security Advisory Committee (NMSAC) will conduct a meeting by teleconference on Thursday, September 20, 2007, for the purpose of discussing the committee's comments, recommendations, and responses to a questionnaire designed to inform the development of a preliminary draft of the Transportation Worker Identification Credential (TWIC) Biometric Reader Requirements Notice of Proposed Rulemaking. The teleconference will be open to the public.

DATES: The teleconference will take place Thursday, September 20, 2007 from 1 p.m. to 4 p.m. e.s.t. This teleconference may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before September 13, 2007. Requests to have a copy of your material distributed to each member of the committee or subcommittee should reach the Coast Guard on or before September 13, 2007.

ADDRESSES: The NMSAC teleconference will be held in room 5222, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593. Public participation is limited to monitoring the teleconference only, except at the time allotted by the chairperson for public comment; special note, the number of teleconference lines is limited and available on a first-come, first served basis. For call-in information contact Commander Mark Hammond using the contact information below. Requests to have topic related written material distributed to each member of the committee prior to the meeting should reach the contact person at the address below by September 13, 2007. Send written material by mail or electronic mail per instructions below. This notice is available in our online docket, USCG–2007–29141, at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Commander Mark Hammond, CG–3PCP–1/NMSAC, Room 5302, 2100 2nd Street SW., Washington, DC, 20593, telephone number 202–372–1107, e-mail *mark.e.hammond@uscg.mil* and fax number 202–372–1905.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463).

On September 20, 2007 the committee will meet via teleconference for the purpose of discussing the committee's comments, recommendations, and responses to a questionnaire designed to inform the development of a preliminary draft of the Transportation Worker Identification Credential (TWIC) Biometric Reader Requirements Notice of Proposed Rulemaking.

The committee will discuss the above issues from approximately 1 p.m. e.s.t. to 4 p.m. e.s.t. The chairperson of the NMSAC shall conduct the teleconference meeting in a way that will, in their judgment, facilitate the orderly conduct of business. Please note that the teleconference may end early if all business is completed.

Agenda of Teleconference

(1) September 20, 2007 teleconference meeting:

a. Discuss the committee's comments, recommendations, to inform the development of a preliminary draft of the Transportation Worker Identification Credential (TWIC) Biometric Reader Requirements Notice of Proposed Rulemaking.

b. The Chairperson will announce the time allotted for public comments and discussion.

Procedural

The teleconference is open to the public, either by calling in on one of the public lines, or by attending at the Coast Guard headquarters address listed in **ADDRESSES** above. Please note that the teleconference may end early if all business is finished. Security requires that any member of the public who wishes to attend the teleconference in person at Coast Guard Headquarters provide his or her name and date of birth no later than 4 p.m. e.s.t., Friday, September 14, 2007 to Commander Mark Hammond at *NMSAC@uscg.mil*, or via phone at (202) 372–1107. Please list the docket number and NMSAC Teleconference in the subject line on all email messages. Photo identification will be required for entry into the building.

Information on Services for Individuals with Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Commander Mark Hammond as soon as possible.

Dated: August 28, 2007.

M. P. O'Malley.

Captain, U.S. Coast Guard, , Office of Port & Facility Activities.

[FR Doc. 07–4354 Filed 8–31–07; 2:25 pm]

BILLING CODE 4910–15–P

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. This collection was modified during the 60 day comment period to change the type of information collection from an extension, without change, of a currently approved collection, to a revision of a currently approved collection. This change was included to capture the change in burden hour cost to respondents.

Title: FEMA Mitigation Success Story Database.

OMB Number: 1660–0089.

Abstract: FEMA uses the information in the database to document and disseminate first-hand experiences of State, communities, private businesses, and homeowners that incorporate mitigation and flood insurance activities that are cost effective and promote strategic partnerships. By sharing information, communities and individuals can learn about available federal programs to support the implementation of noteworthy local activities.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, and State, Local or Tribal government.

Number of Respondents: 150.

Estimated Time per Respondent: 5.5 hours.

Estimated Total Annual Burden Hours: 563 hours.

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 and 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 October 9, 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: August 30, 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. E7–17623 Filed 9–5–07; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1717–DR]

Minnesota; Amendment No. 2 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 Minnesota (FEMA–1717–DR), dated August 23, 2007, and related determinations.

EFFECTIVE DATE: August 28, 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 Minnesota 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 August 23, 2007.

Dodge County for Public Assistance.

Fillmore, Houston, Olmsted, Steele, Wabasha, and Winona Counties for Public Assistance (already designated for Individual Assistance and Public Assistance Category B [emergency protective measures], including direct Federal 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. E7–17622 Filed 9–5–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1720–DR]

Ohio; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA–1720–DR), dated August 27, 2007, and related determinations.

EFFECTIVE DATE: August 27, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 27, 2007, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Ohio resulting from severe storms, flooding, and tornadoes beginning on August 20, 2007, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Ohio.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs.

If Public Assistance is later requested and warranted, Federal funds provided under

that program also will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jesse Munoz, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Ohio to have been affected adversely by this declared major disaster:

Allen, Crawford, Hancock, Putnam, Richland, and Wyandot Counties for Individual Assistance.

All counties within the State of Ohio are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(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. E7–17604 Filed 9–5–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1719–DR]

Wisconsin; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Wisconsin (FEMA–1719–DR), dated August 26, 2007, and related determinations.

EFFECTIVE DATE: August 26, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated August 26, 2007, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Wisconsin resulting from severe storms and flooding beginning on August 18, 2007, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Wisconsin.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs.

If Public Assistance is later requested and warranted, Federal funds provided under that program also will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Michael Bolch, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Wisconsin to have been affected adversely by this declared major disaster:

Crawford, La Crosse, Richland, Sauk, and Vernon Counties for Individual Assistance.

All counties within the State of Wisconsin are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(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, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050, Individual and Household Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–17605 Filed 9–5–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2002–11334]

Extension of Agency Information Collection Activity Under OMB Review; Aviation Security Infrastructure Fee (ASIF) Records Retention

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on May 9, 2007, 72 FR 26417. The collection requires air carriers to retain any and all documents, records, or information related to the amount of the ASIF, including all information applicable to the carrier's calendar year 2000 security costs and

information reasonably necessary to complete an audit.

DATES: Send your comments by October 9, 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/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, Communications Branch, Business Management Office, Operational Process and Technology, TSA–32, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–3651; facsimile (571) 227–3588.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et. seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for submission for OMB clearance of the information collection discussed in this notice, TSA solicits comments in order to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Aviation Security Infrastructure Fee Records Retention (ASIF).

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0018.

Forms: NA.

Affected Public: Air Carriers.

Abstract: The Aviation Transportation and Security Act (ATSA) authorizes the Assistant Secretary of the Department of Homeland Security to set the ASIF provided the ASIF not exceed industry aggregate Calendar Year 2000 security expenditures nor exceed an individual carrier's Calendar Year 2000 security expenditures. Under 49 CFR Part 1511, carriers must retain any and all documents, records, or information related to the amount of the ASIF, including all information applicable to the carrier's calendar year 2000 security costs and information reasonably necessary to complete an audit. This requirement includes retaining the source information for the calendar year 2000 screening costs reported to TSA; the calculations and allocations performed to assign costs submitted to TSA; information and documents reviewed and prepared for the required independent audit; the accountant's working papers, notes, worksheets, and other relevant documentation used in the audit; and, if applicable, the specific information leading to the accountant's opinion, including any determination that the accountant could not provide an audit opinion.

Number of Respondents: 196.

Estimated Annual Burden Hours: An estimated 392 hours annually.

Issued in Arlington, Virginia, on August 30, 2007.

Fran Lozito,

Director, Business Management Office, Operational Process and Technology.

[FR Doc. E7–17571 Filed 9–5–07; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5130-N–10]

Privacy Act of 1974; Supplemental Information and Technical Correction to Notice of Computer Matching Program Between the Department of Housing and Urban Development (HUD) and the Department of Health and Human Services (HHS)—Matching Tenant Data in Assisted Housing Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of Supplementary Information and Technical Corrections.

SUMMARY: This notice provides Supplementary Information and Technical Corrections to the Computer Matching Notice published in the **Federal Register** on August 8, 2006. This information changes the anticipated effective date of the computer matching program; removes the term ''applicants'' cited in the prior notice since disclosure of applicant information is not authorized; provides date and pertinent information about HUD's statutorily required evaluation document and its Enterprise Income Verification (EIV) system; provides citations for HUD requirements described in the prior notice; and, clarifies the system of records in the program description and records to be matched. The authority, objectives, and the period of the match under the existing HUD and HHS computer matching program remain unchanged. A more detailed description about the current matching program is contained in the Supplemental Information section.

DATES: *Effective Date:* The effective date of the matching program shall be *October 9, 2007*, providing no comments are received which would result in a contrary determination or 40 days after notice of the matching program is provided to the Office of Management and Budget (OMB) and Congress, whichever is later.

Comments Due Date: October 9, 2007.

FOR FURTHER INFORMATION CONTACT: The Departmental Privacy Act Officer, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4178, Washington, DC 20410–3000, telephone number (202) 708–2374. A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service). For program information: Gail Williamson, Office of Housing, Director of the Housing Assistance Policy Division, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6138, Washington, DC 20410, telephone number (202) 708–3000, ext. 2473.

SUPPLEMENTARY INFORMATION: The matching program will be carried out only to the extent necessary to: (1) Verify the employment and income of individuals participating in the programs identified below to correctly determine the amount of their rent and level of rental assistance; and (2) after removal of personal identifiers, to conduct analyses of the employment and income reporting of individuals participating in HUD's rental assistance programs. Currently, HUD makes the results of the computer match available to public housing agencies (PHAs) administering HUD rental assistance programs to enable them to verify employment and income and correctly determine the rent and assistance levels for individuals participating in those programs. This information is also being disclosed to the HUD Inspector General

(HUD/IG), and the Attorney General in connection with the administration of the programs identified below.

Based on (1) an evaluation of the costs and benefits of disclosures made to PHAs; and (2) the adequacy of measures used to safeguard the security and confidentiality of information so disclosed, HUD will disclose employment and income information of tenants to private housing owners and management agents (O/As) and contract administrators (CAs) that administer HUD rental assistance programs under agreements with HUD. The evaluation was conducted by HUD and signed by HUD and Office of Child Support Enforcement (OCSE) authorized officials on May 11, 2007. HUD and its third party administrators will use this matching authority to reduce or eliminate improper assistance payments in the housing programs authorized by:

(i) The United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*);

(ii) Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(iii) Section 221(d)(3), 221(d)(5) or 236 of the National Housing Act (12 U.S.C. 1715l d and 1715z-1);

(iv) Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013); or

(v) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

The Computer Matching and Privacy Protection Act (CMPPA) of 1988, an amendment to the Privacy Act of 1974 (5 U.S.C. 552a), OMB's guidance on this statute entitled ''Final Guidance Interpreting the Provisions of Public Law 100–503,'' and OMB Circular No. A–130 require publication of notices of computer matching programs. Appendix I to OMB's Revision of Circular No. A–130, ''Transmittal Memorandum No. 4, Management of Federal Information Resources,'' prescribes Federal agency responsibilities for maintaining records about individuals. In accordance with the CMPPA and Appendix I to OMB Circular No. A–130, copies of this notice are being provided to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the United States Senate, and OMB's Office of Information and Regulatory Affairs.

I. Authority

This matching program is being conducted pursuant to section 453(j)(7) of the Social Security Act; sections 3003 and 13403 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66, approved August 10, 1993); section 542(b) of the 1998 Appropriations Act (Pub. L. 105–65); section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544); section 165 of the Housing and Community Development Act of 1987 (42 U.S.C. 3543); the National Housing Act (12 U.S.C. 1701–1750g); the United States Housing Act of 1937 (42 U.S.C. 1437–1437z); section 101 of the Housing and Community Development Act of 1965 (12 U.S.C. 1701s); the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*); and the Quality Housing and Work Responsibility Act of 1998 (42 U.S.C. 1437a(f)).

The Housing and Community Development Act of 1987 authorizes HUD to require applicants and participants in HUD-administered programs involving rental assistance to disclose to HUD their social security numbers (SSNs) as a condition of initial or continued eligibility for participation in the programs. Subsection 453(j) of the Social Security Act, as amended by Section 217 of the Consolidated Appropriations Act of 2004 (Pub. L. 108–199), authorizes HUD to provide to HHS information on persons participating in any programs authorized by:

(i) The United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*);

(ii) Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(iii) Section 221(d)(3), 221(d)(5) or 236 of the National Housing Act (12 U.S.C. 1715ld and 1715z–1);

(iv) Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013); or

(v) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

HHS shall then compare this information provided by HUD with data contained in the National Directory of New Hires (NDNH) and report the results of the data match to HUD. The Act gives HUD the authority to disclose this information to PHAs, O/As, CAs under contract with HUD, the HUD/IG, and the Attorney General for the purpose of verifying the employment and income of individuals receiving benefits in the above programs. HUD shall not seek, use, or disclose information relating to an individual without the prior written consent of the individual, and HUD has the authority to require consent as a condition of participating in these programs.

HHS' disclosure of data from the NDNH is authorized by subsection 453(j) of the Social Security Act, as amended by Section 217 of the Consolidated Appropriations Act of 2004. The disclosures from the HHS system of records, ''Location and Collection System of Records,'' No. 09–90–0074, will be made pursuant to routine use (17) identified in the **Federal Register** on June 3, 2004 (69 FR 31399). This routine use authorizes HHS to ''disclose to HUD information in the NDNH portion of this system for purposes of verifying employment and income of individuals participating in specified programs and, after removal of personal identifiers, to conduct analyses of the employment and income reporting of these individuals.''

II. Objectives To Be Met by the Matching Program

HUD's primary objective in implementing the computer matching program is to verify the employment and income of individuals participating in multifamily housing programs identified in paragraph I above to determine the appropriate level of rental assistance, and to deter and correct abuse in rental assistance programs. In meeting these objectives, HUD is also carrying out a responsibility under 42 U.S.C. Sec. 1437f(k) to ensure that income data provided to O/As and CAs by household members is complete and accurate. HUD's various rental assistance programs require that applicants meet certain income and other criteria to be eligible for rental assistance. In addition, tenants participating in multifamily housing programs generally are required to report and recertify the amounts and sources of their income at least annually.

III. Program Description

In this computer matching program, records from HUD's system of records, known as the EIV System, published at 71 FR 45066 on August 8, 2006, will be compared to OCSE's database NDNH. The NDNH contains new hire, quarterly wage and unemployment insurance information and is maintained in OCSE's system of records, ''Location and Collection System'', No. 9–90–0074, last published at 70 FR 21200, April 25, 2005. HUD will only transmit to HHS for computer matching those tenant personal identifies (i.e., full name, SSN, and date of birth) that have been validated by the Social Security Administration (SSA). HHS will match the HUD-provided personal identifiers to personal identifiers included in their systems of records known as ''Location and Collection System of Records,'' No. 09–90–0074. HHS will provide income data to HUD only for individuals with matching personal identifiers. HUD will place matching data into EIV, which

will receive: (1) New hires (W–4), wage, and unemployment insurance claim data from HHS' NDNH database; and (2) Social Security (SS) and Supplemental Security Income (SSI) benefits data from the SSA. This will allow PHAs and O/As to verify the income of tenants at the time of mandatory annual and/or interim recertifications.

A. Income Verification

Any match (*i.e.*, a ''hit'') will be further reviewed by HUD, the program administrator, or the HUD Office of Inspector General (OIG) to determine whether the income reported by tenants to the program administrator is correct and complies with HUD and program administrator requirements. Specifically, current or prior wage information and other data will be sought directly from employers.

B. Administrative or Legal Actions

Regarding the matching described in this notice, HUD anticipates that program administrators will take appropriate action in consultation with tenants to: (1) Resolve income discrepancies between tenant-reported and independent income source data; and (2) use correct income amounts in determining rental assistance, in accordance with Chapter 5, Sections 3 and 4 of the Occupancy Requirements of Subsidized Multifamily Housing Programs, 4350.3 REV–1. Program administrators must compute the rent in full compliance with all applicable occupancy regulations. Program administrators must ensure that they use the correct income and correctly compute the rent. The program administrator may not suspend, terminate, reduce, or make a final denial of any rental assistance to any tenant as a result of information produced by this matching program until: (a) The tenant has received notice from the program administrator of its findings and informing the tenant of the opportunity to contest such findings; and (b) either the notice period provided in applicable regulations of the program, or 30 days, whichever is later, has expired. In most cases, program administrators will resolve income discrepancies in consultation with tenants. Additionally, serious violations, which program administrators, HUD Program staff, or HUD/IG verify, should be referred for full investigation and appropriate civil and/or criminal proceedings.

IV. Records To Be Matched

HHS will match HUD-provided tenant SSNs and personal identifiers (such as surnames and dates of birth) in HUD's system of records known as EIV, amended August 8, 2006, 71 FR 45066 to NDNH records contained in its ''Location and Collection System of Records'', No. 09–90–0074. HUD will place the resulting matched data into its EIV system. The tenant records (one record for each family member) include these data elements: Full name, SSN, and date of birth. Routine uses of records maintained in the system, including categories of users and purposes of such uses are identified in **Federal Register** Notice Privacy Act of 1974; Amendment to an Existing System of Records, Enterprise Income Verification, HUD/PIH 5 (71 FR 45066).

V. Period of the Match

The computer matching program will be conducted according to agreements between HUD and HHS. The computer matching agreement for the planned match will terminate either when the purpose of the computer matching program is accomplished, or 18 months from the date the agreement is signed, whichever comes first. The agreements may be extended for one 12-month period, with the mutual agreement of all involved parties, if the following conditions are met:

(1) Within 3 months of the expiration date, all Data Integrity Boards review the agreement, find that the program will be conducted without change, and find a continued favorable examination of benefit/cost results; and

(2) all parties certify that the program has been conducted in compliance with the agreement.

The agreement may be terminated prior to accomplishment of the computer matching purpose or 18 months from the date the agreement is signed (whichever comes first), by the mutual agreement of all involved parties within 30 days of written notice.

Authority: 5 U.S.C. 552a; 88 Stat. 1896; 42 U.S.C. 3535(d).

Dated: August 17, 2007.

Bajinder Paul,

Acting, Chief Information Officer.

[FR Doc. E7–17589 Filed 9–5–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Construction of a Residential Community in Lake County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice: Receipt of application for an incidental take permit; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of an Incidental Take Permit (ITP) Application and Habitat Conservation Plan (HCP). Zenodro Homes, Inc. (applicant) requests an ITP for a duration of 10 years under the Endangered Species Act of 1973, as amended (Act). The applicant anticipates taking approximately 3.5 acres of sand skink (Neoseps reynoldsi)—occupied habitat incidental to constructing a 100-unit multi-family development in Lake County, Florida (project). The applicant's HCP describes the mitigation and minimization measures the applicant proposes to address the effects of the project to the sand skink.

DATES: We must receive any written comments on the ITP application and HCP on or before October 9, 2007.

ADDRESSES: If you wish to review the application and HCP, you may write the Field Supervisor at our Jacksonville Field Office, 6620 Southpoint Drive South, Suite 310, Jacksonville, FL 32216, or make an appointment to visit during normal business hours. If you wish to comment, you may mail or hand deliver comments to the Jacksonville Field Office, or you may e-mail comments to *paula_sisson@fws.gov.* For more information on reviewing documents and public comments and submitting comments, see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Paula Sisson, Fish and Wildlife Biologist, Jacksonville Field Office (see **ADDRESSES**); telephone: 904/232–2580, ext. 126.

SUPPLEMENTARY INFORMATION:

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.

Please reference permit number TE132333–0 for Zenodro Homes, Inc. in all requests or comments. Please include your name and return address in your e-mail message. If you do not receive a confirmation from us that we have received your e-mail message, contact us directly at the telephone number listed under **FOR FURTHER INFORMATION CONTACT**.

Background

The sand skink is known to occur in Lake County, primarily within the Lake Wales Ridge, and much less frequently within the Mt. Dora Ridge. Although originally thought to inhabit xeric, scrub habitat exclusively, the sand skink is currently being identified in nontraditional areas with sub-marginal habitat, including pine plantation, abandoned citrus groves, and disturbed areas. Sand skinks require soil moisture for thermoregulation, egg incubation, and prey habitat. High activity periods, which have been associated with the breeding season for this species, range from mid-February to early May, with egg-hatching typically occurring from June through July. Due to the reduction in quality and acreage and the rapid development of xeric upland communities, the sand skink is reportedly declining throughout most of its range. However, biological information regarding the sand skink is limited, due to the cryptic nature of the species.

Applicant's Proposal

The applicant is requesting take of approximately 3.5 ac of occupied sand skink habitat incidental to the project. The 10-acre project is located approximately 1.25 miles northeast of the intersection of U.S. Highway 192 and U.S. Highway 27 within Section 25, Township 24 South, Range 26 East. The project currently includes 100 units (25 buildings with 4 units per building), associated infrastructure, and a stormwater retention pond encompassing 10.0 ac. The applicant proposes to mitigate for 3.5 ac of impacts by purchasing 7.0 ac of occupied sand skink habitat at the Morgan Lake Wales Preserve (Preserve) in Polk County. The Preserve lies within the boundaries of the Lake Wales Ridge and covers approximately 487 ac. The occupied sand skink habitat identified for this project will be protected under a conservation easement and a trust fund has been established for perpetual management.

We have determined that the applicant's proposal, including the proposed mitigation and minimization measures, would have minor or negligible effects on the species covered in the HCP. Therefore, the ITP is a ''low-effect'' project and qualifies for categorical exclusions under the National Environmental Policy Act (NEPA), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1). This preliminary information may be revised based on our review of public comments that we receive in response to this notice. A low-effect HCP is one involving (1) minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

We will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 *et seq.*). If we determine that the application meets those requirements, we will issue the ITP for incidental take of the sand skink. We will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in the final analysis to determine whether or not to issue the ITP.

Authority: We provide this notice under Section 10 of the Act and NEPA regulations (40 CFR 1506.6).

Dated: August 30, 2007.

David L. Hankla,

Field Supervisor, Jacksonville Field Office.

[FR Doc. E7–17598 Filed 9–5–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Copperbelly Water Snake (Nerodia erythrogaster neglecta) Draft Recovery Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce availability of the draft recovery plan for the Copperbelly Water Snake (*Nerodia erythrogaster neglecta*) for public review and comment. This species is federally listed as threatened under the Endangered Species Act of 1973, as amended (Act). The Copperbelly Water Snake is listed as a Distinct Population Segment in Michigan, Ohio, and Indiana, north of 40 degrees north latitude. The purpose of this plan is to recover this species so that it can be removed from the list of Threatened and Endangered Wildlife. We solicit review and comment from the public on this draft plan.

DATES: In order to consider your comments on the draft recovery plan, we must receive them on or before November 5, 2007.

ADDRESSES: You may obtain a copy by the following means:

1. *World Wide Web: http://midwest.fws.gov/endangered;* or

2. *U.S. mail or in-person pickup:* Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 2651 Coolidge Road, Suite 101, East Lansing, MI 48823–6316; telephone, (517) 351–2555.

You may submit electronic comments on the recovery plan to this e-mail address: *copperbellyplan@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Mike DeCapita by U.S. mail, e-mail, or telephone (see **ADDRESSES**). TTY users may contact Mr. DeCapita through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals or plants is a primary goal of our endangered species program. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for reclassification and delisting, and provide estimates of the time and costs for implementing the recovery measures.

The Act (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and opportunity for public review and comment be provided during recovery plan development. We will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. We and other Federal agencies will also take these comments into consideration in the course of implementing approved recovery plans.

The northern Distinct Population Segment (DPS) of the Copperbelly Water Snake was listed as threatened on January 29, 1997. The northern DPS occurs in Michigan, Indiana, and Ohio, north of 40 degrees north latitude. The current distribution of the Copperbelly Water Snake is limited to only a few small, scattered, and isolated population clusters in south central Michigan, northeastern Indiana, and northwestern Ohio. Surveys have indicated that the species is in decline throughout these areas.

Copperbelly Water Snakes have both wetland and terrestrial habitat requirements. The species is associated with wetland complexes characterized by a preponderance of shallow wetlands, many of which draw down

seasonally. Such complexes may predominantly occur as isolated wetlands distributed in a forested upland matrix, floodplain wetlands fed by seasonal flooding, or a combination of both. Fishless wetlands, suitable for high anuran (frog and toad) productivity, are required to provide habitat and a suitable prey base.

The principal limiting factor for copperbellies appears to be sufficient extent of suitable habitat. Individuals move hundreds of meters or more between wetlands and routinely use multiple wetlands over the course of an active season. They also spend substantial periods of time in upland habitat aestivating, foraging, and shedding. Populations may require many hundreds of hectares of contiguous habitat in order to persist.

Delisting Criteria

The objective of the recovery plan is to provide a framework for the recovery of the Copperbelly Water Snake so that protection by the Act is no longer necessary. Copperbelly Water Snake will be considered for delisting when the likelihood of the species becoming extinct in the foreseeable future has been reduced or eliminated by the achievement of the following criteria. The population sizes and metapopulation numbers and sizes needed for delisting and reclassification may be updated based on further research (*e.g.*, population viability analysis) on viable population sizes of Copperbelly Water Snake or surrogate species.

(1) Multiple population viability is assured through the following:

(a) At least 1 population of Copperbelly Water Snake must exceed a population size of 1000 adults;

(b) Either 5 geographically distinct populations have population sizes of more than 500 individuals or 3 metapopulations must have a total population size of 3000, with none less than 500; and

(c) Populations described in (a) and (b) above must persist at these levels for at least 10 years.

(2) Sufficient habitat is conserved and managed such that for each population described in Criterion 1:

(a) Wetland/upland habitat complexes sufficient to support each population are permanently conserved, and

(b) Two suitable hibernation sites are permanently conserved within one kilometer of all suitable summer habitat.

(3) Significant threats due to lack of suitable management, adverse land features and uses, collection, and persecution have been reduced or eliminated through the following means:

(a) Habitat management and protection guidelines will be developed, distributed, and maintained;

(b) Adverse land features and uses such as row crops and roads and accompanying traffic are removed, minimized, or managed within occupied Criterion-1 landscape complexes to the extent possible; and

(c) A comprehensive education and outreach program that addresses persecution and collection deterrence will be developed and implemented.

These criteria will be met through the following actions: (1) Identify and protect habitat landscape sufficient for recovery; (2) Monitor known Copperbelly Water Snake populations and their habitat; (3) Improve baseline understanding of Copperbelly Water Snake ecology; (4) Develop recovery approaches to enhance recruitment and population size; (5) Develop and implement public education and outreach efforts; (6) Review and track recovery progress; and (7) Develop a plan to monitor Copperbelly Water Snake after it is delisted.

Reclassification Criteria

Copperbelly Water Snake will be considered for reclassification from Threatened to Endangered if surveys indicate either of the following criteria have occurred:

(1) There are no metapopulations of more than 500 adults.

(2) The cumulative population size is less than 1000.

If classified as Endangered, the species may be reclassified as Threatened when the reclassification criteria are no longer occurring. Additional detail on delisting and reclassification criteria is available in the draft recovery plan.

Public Comments Solicited

The Service solicits written comments on the draft recovery plan. All comments received by the date specified will be considered prior to approval of the plan. Written comments and materials regarding the plan should be addressed to the Field Supervisor (see **ADDRESSES**). Comments and materials received will be available for public inspection by appointment during normal business hours at the above address.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 25, 2007.

Wendi Weber,

Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. E7–17582 Filed 9–5–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Low Effect Habitat Conservation Plan for the Bellota Landslide Repair and Shorecliffs Mobile Home Neighborhood Expansion, City of San Clemente, County of Orange, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Seaview Repair LLC (applicant) has applied to the U.S. Fish and Wildlife Service (Service) for a 10-year incidental take permit for one covered species pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for ''take'' of the threatened coastal California gnatcatcher (*Polioptila californica californica,* ''gnatcatcher'') associated with the proposed landslide remediation project in the City of San Clemente, Orange County, California. A conservation program to minimize and mitigate for the project activities would be implemented as described in the proposed Bellota Landslide Repair and Shorecliffs Mobile Home Neighborhood Expansion Low Effect Habitat Conservation Plan (proposed HCP), which would be implemented by the applicant.

We are requesting comments on the permit application and on the preliminary determination that the proposed HCP qualifies as a ''Low-effect'' Habitat Conservation Plan, eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. The basis for this determination is discussed in the Environmental Action Statement (EAS) and the associated Low Effect Screening Form, which are also available for public review.

DATES: Written comments should be received on or before October 9, 2007.

ADDRESSES: Comments should be addressed to the Field Supervisor, Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California 92011. Written comments may be sent by facsimile to (760) 918–0638.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Goebel, Assistant Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES**); telephone: (760) 431–9440.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the application, proposed HCP, and EAS should immediately contact the Service by telephone at (760) 431–9440 or by letter to the Carlsbad Fish and Wildlife Office. Copies of the proposed HCP and EAS also are available for public inspection during regular business hours at the Carlsbad Fish and Wildlife Office [see **ADDRESSES**].

Background

Section 9 of the Act and its implementing Federal regulations prohibit the take of animal species listed as endangered or threatened. Take is defined under the Act as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). However, under section 10(a) of the Act, the Service may issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

The applicant is seeking a permit for take of the coastal California gnatcatcher during the life of the permit.

The applicant proposes to repair a landslide within a 16.33-acre project site that occurred on a slope adjacent to Via Bellota in the City of San Clemente, California. The proposed landslide remediation would involve remedial grading and construction of a landslide buttress at the westerly end of the canyon to stabilize the slide area. The slope would be graded and stabilized with shear pins every 10 feet. A collapsed underground stormdrain pipe that currently extends through the canyon bottom would be replaced to minimize the risk of pipe failures that could result in soil saturation and additional slope instability. An additional slope failure at the southwest end of the proposed landslide repair would be graded, excavated, filled, compacted and have hydroaugers (horizontal drains) installed which would outlet to the stormdrain being constructed for the landslide repair. Construction of a gunite terrace and down drains, which would outlet at the bottom of the slope, would occur on the surface of the finished slope. The repair of this slope failure would be concurrent with the stabilization of the landslide. Additionally, the proposed project would include the construction and sale of 20 graded lots within the Shorecliffs Mobile Home Park.

The applicant proposes to minimize and mitigate the effects to the gnatcatcher associated with the covered activities by fully implementing the HCP. The purpose of the proposed HCP's conservation program is to promote the biological conservation of the gnatcatcher. The HCP includes measures to minimize impacts to gnatcatcher by scheduling vegetation removal outside of the breeding season (February 15 to August 15). The project may result in take of one (1) pair of gnatcatchers and will permanently impact 5.36 acres of coastal sage scrub (CSS) and temporarily impact 6.71 acres of CSS. The applicant proposes to mitigate impacts to the gnatcatcher by revegetating 8.01 acres of the disturbed CSS onsite and restoring 9.42 acres of CSS offsite.

The Proposed Action consists of the issuance of an incidental take permit and implementation of the proposed HCP, which includes measures to minimize and mitigate impacts of the project on the gnatcatcher. Three alternatives to the taking of the listed species under the Proposed Action are considered in the proposed HCP. Under the No Action Alternative, no permit would be issued, and no construction or conservation would occur. This alternative would not comply with the settlement agreement to repair the landslide. The Offsite Alternative is not feasible because the proposed project involves an existing landslide which occurs within the proposed project site. A Reduce Project Alternative is also not feasible because the proposed project represents the minimum grading and construction footprint necessary to reconstruct the slope and permanently stabilize the slide.

The Service has made a preliminary determination that approval of the proposed HCP qualifies as a categorical exclusion under NEPA, as provided by the Department of the Interior Manual (516 DM8) and as a ''low-effect'' plan as defined by the Habitat Conservation Planning Handbook (November 1996). Determination of Low-effect Habitat Conservation Plans is based on the following three criteria: (1) Implementation of the proposed HCP would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) Implementation of the proposed HCP would result in minor or negligible effects on other environmental values or resources; and (3) Impacts of the proposed HCP, considered together with the impacts of other past, present and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources which would be considered significant.

Based upon this preliminary determination, we do not intend to prepare further NEPA documentation. We will consider public comments in making the final determination on whether to prepare such additional documentation.

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.

This notice is provided pursuant to section 10(c) of the Act. We will evaluate the permit application, the proposed HCP, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If the requirements are met, we will issue a permit to Seaview Repair LLC for the incidental take of the coastal California gnatcatcher from landslide remediation in the City of San Clemente, Orange County, California.

Dated: August 30, 2007.

Jim A. Bartel,

Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.

[FR Doc. E7–17592 Filed 9–5–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Restoration of Habitat for Utah Prairie Dogs on Private Land in Utah

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: Safe harbor agreement and receipt of application for an enhancement of survival permit.

SUMMARY: The Panoramaland Resources Conservation and Development Council (applicant) has applied to the Fish and Wildlife Service (Service, us) for an

enhancement of survival permit (permit) for the Utah prairie dog within the species' range in Utah under the Endangered Species Act of 1973, as amended (Act). This permit application includes a safe harbor agreement (SHA) between the applicant and us, with the ability for the applicant to issue certificates of inclusion to private landowners. We request information, views, and opinions from the public via this notice. Further, we are soliciting information regarding the adequacy of the SHA as measured against our Safe Harbor Policy and the regulations that implement it.

DATES: We must receive any written comments on the permit application and SHA on or before October 9, 2007.

ADDRESSES:

- *Mail:* Utah Field Office, 2369 West Orton Circle, West Valley City, Utah 84119.
- *Internet: http://mountain-prairie.fws.gov/species/mammals/utprairiedog/.*
- *E-mail: utahprairiedogSHA@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Larry Crist, Utah Field Supervisor (see **ADDRESSES**), telephone (801) 975–3330.

SUPPLEMENTARY INFORMATION: The Utah prairie dog is the westernmost member of the genus *Cynomys.* The species' range, which is limited to the southwestern quarter of Utah, is the most restricted of all prairie dog species in the United States. Distribution of the Utah prairie dog has been greatly reduced due to disease (plague), poisoning, drought, and human-related habitat alteration. Protection of this species and enhancement of its habitat on private land will benefit recovery efforts.

The primary objective of this SHA is to promote conservation of a threatened species through voluntary conservation, enhancement, and management of the species on private land throughout the range of the species. Through this SHA, the applicant receives the ability to oversee a safe harbor program working under a permit. We will authorize the applicant to enroll willing individual landowners (cooperators) into the program, which will require that each cooperator enter a cooperative agreement with the Panoramaland Resource Conservation and Development Council, with associated management activities, in exchange for a certificate of inclusion under the permit. This certificate will provide relief from any additional section 9 liabilities under the Act beyond those which exist at the time the cooperative agreement is signed (''regulatory baseline'').

All cooperative agreements shall include the following: (1) Use of pesticides within 100 feet (31 meters) of an active Utah prairie dog colony must be limited to only those approved for this purpose by the Service; (2) All applied practices (see below) must be planned and applied in a manner that will not adversely affect other wildlife, including threatened or endangered species; (3) Monitoring of habitat restoration activities (see below) must occur to assess the general condition of the habitat, use of the habitat by the Utah prairie dog, progress of ongoing management activities, and satisfaction of the cooperator with the project.

In addition to the above management activities, at least two of the following activities must be included in all cooperative agreements: (1) Brush management to restore plant community balance, increase visual surveillance, and increase forage quantity and quality; (2) Prescribed grazing to increase visual surveillance, increase forage quantity and quality and deferment to create vegetative varies to limit expansion to undesirable locations; (3) Seeding to restore degraded rangelands or pasturelands and bare ground and increase forage quantity and quality; (4) Prescribed burning to increase forage quantity and quality; or (5) Noxious weed control to facilitate restoration of rangelands or pasturelands, increase visual surveillance, and increase forage quantity and quality. The habitat improvements will be maintained throughout the term of the cooperative agreement. The cooperator will receive a certificate of inclusion that authorizes implementation of the conservation actions and other provisions of the cooperative agreement and authorizes incidental take and limited control of the covered species above the cooperator's baseline responsibilities, as defined in the cooperative agreement. The SHA and permit would become effective upon signature of the SHA, and issuance of the permit and would remain in effect for 50 years.

We have evaluated the impacts of this action under the National Environmental Policy Act (NEPA) and determined that it warrants categorical exclusion as described in 516 DM 8.5, and/or 516 DM 2, Appendix 1. This notice is provided pursuant to NEPA, section 10 of the Act, and our Safe Harbor Policy (64 FR 32717, June 17, 1999). We will evaluate whether the issuance of the permit complies with section 7 of the Act by conducting an intra-Service section 7 consultation. We will use the result of the biological opinion, in combination with our finding that will take into consideration any public comments, in the final analysis to determine whether or not to issue the requested permit, pursuant to the regulations that guide permit issuance.

Public Review of Documents

Persons wishing to review the SHA and the application may obtain a copy by writing our Utah Field Office (see **ADDRESSES**) or by visiting during normal business hours. The SHA also will be posted on the Internet at *http://mountain-prairie.fws.gov/species/mammals/utprairiedog/.*

Public Comments

Send any written data or comments concerning the SHA or application to the Utah Field Office (see **ADDRESSES**). Comments must be submitted in writing to be adequately considered in the Service's decisionmaking process. Please reference permit number TE–155376 in your comments, or in the request for the documents discussed herein.

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.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 8, 2007.

James J. Slack,

Deputy Regional Director, Denver, Colorado.

[FR Doc. E7–17590 Filed 9–5–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Tidal Restoration of the Cullinan Ranch Unit of San Pablo Bay National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are preparing an environmental impact statement (EIS) for the tidal restoration of the Cullinan Ranch Unit of the San Pablo Bay National Wildlife Refuge, located in Solano County, California. This notice advises the public that we intend to gather information necessary to prepare an EIS pursuant to the National Environmental Policy Act (NEPA). We encourage the public and other agencies to participate in the planning process by sending written comments on management actions we should consider.

DATES: To ensure that we have adequate time to evaluate and incorporate suggestions and other input into the planning process, we must receive your comments on or before October 22, 2007.

ADDRESSES: Send written comments or requests to be added to the mailing list to: Christy Smith, Refuge Manager, San Pablo Bay National Wildlife Refuge, 7715 Lakeville Highway, Petaluma, CA 94954. Alternatively, fax written comments to (707) 769–8106, or send comments by e-mail to *christy_smith@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Christy Smith, Refuge Manager, (707) 769–4200.

SUPPLEMENTARY INFORMATION:

Background

The Cullinan Ranch restoration project would restore approximately 1,500 acres (ac) of diked baylands back to historic tidal conditions by reintroducing tidal flow into the project area. Cullinan Ranch is located in an area of the Napa River Delta that was historically defined by a network of meandering sloughs and extensive estuarine tidal marshes. Reintroduction of tidal flow will restore vital salt marsh habitat for endangered species, including the salt marsh harvest mouse (*Reithrodontomys raviventris*) and the California clapper rail (*Rallus longirostris obsoletus*), as well as provide foraging and roosting habitat for fish, migratory waterfowl, and waterbirds.

In keeping with one of the purposes of the Refuge—''to conserve fish, wildlife, or plants which are listed as endangered species or threatened species''—the Cullinan Ranch restoration project would restore historic salt marsh habitat for the benefit of threatened and endangered species, as well as many other estuarine-dependent species.

We published a notice of intent to prepare an environmental assessment (EA) and hold a public meeting on July 15, 2002 (67 FR 46538). We held public meetings on August 7, 2002, and March 9, 2007. All meetings were announced in local newspapers. Four members of the public attended the first meeting and provided comments. One person attended the second meeting and provided no comments. All of the comments we received on the EA will go forward into the EIS planning process. During the EA planning process, we determined that possible impacts to traffic flows on Highway 37 required that we complete an environmental impact statement. In addition, since some of the project would take place on State lands belonging to California Department of Fish and Game (CDFG), an environmental impact report (EIR) under the California Environmental Quality Act (CEQA) will be prepared. California Department of Fish and Game is the lead State agency for this project under the CEQA.

Thus far, the Service and CDFG have identified and analyzed a total of eight alternatives based on a set of criteria including the following factors: effects to adjacent habitats, effects to the existing levees, effects on the hydrology of the existing slough channels and adjacent water bodies, costs of implementing restoration activities and long-term maintenance, and effects of project construction on existing uses on and adjacent to the Cullinan Ranch Site. Five of these alternatives were removed from further consideration because they did not meet the cost and engineering feasibility criteria as set forth by the lead agencies. Many of the alternatives considered were formulated with optional implementation features in order to minimize effects on adjacent habitats (such as the fringe marshes along Dutchman Slough and Pritchett Marsh), such as staging the Proposed Action and/or limiting the amount of tidal exchange. These features were analyzed but removed from further consideration because hydrologic modeling revealed that they would not significantly reduce adverse effects to adjacent habitats.

The lead agencies will carry forward three possible restoration alternatives to environmental analysis: the No-Action Alternative, the Preferred Restoration Alternative, and the Partial Restoration Alternative. The lead agencies will consider public input from the scoping period to determine whether any modification should be made to the alternatives or whether any additional issues should be addressed in the EIS.

Summary of Alternatives

No-Action Alternative

Under the No-Action Alternative, the lead agencies would take no action to restore tidal influence to the Site; however, the lead agency would be required to maintain the northern levee along Dutchman and South Sloughs in perpetuity. Maintenance activities would likely be increased as the levees age and erosive action increases in response to activities undertaken by the Napa Sonoma Restoration Project, a tidal restoration project conducted by the State of California adjacent to Cullinan Ranch.

Preferred Restoration Alternative

The Preferred Restoration Alternative would restore the entire 1,525-ac Cullinan Ranch Site, with implementation of the following project components:

Component 1: Construct boardwalk to provide access to existing electrical towers.

Component 2: Block drainage ditches to promote redevelopment of natural sloughs.

Component 3: Improve the CDFG Pond 1 levee and install water control structures.

Component 4: Protect Highway 37 from project induced flooding and erosion.

Component 5: Construct public access areas.

Component 6: Breach the levees along Dutchman and South Sloughs and Guadalcanal Village.

Component 7: Implement long-term monitoring.

Partial Restoration Alternative

The Partial Restoration Alternative would restore 300 ac of the Cullinan Ranch Site. The Service developed the Partial Restoration Alternative in order to limit potential impacts to the hydrology of Dutchman Slough. While it would meet the purpose and need of the project, a smaller overall area within Cullinan Ranch would be restored, and connectivity with other adjacent restoration projects would be limited.

The Partial Restoration Alternative would include implementation of the following project components:

Component 1: Block drainage ditches to promote redevelopment of the natural sloughs.

Component 2: Construct internal levee.

Component 3: Protect Highway 37 from project-induced flooding and erosion.

Component 4: Breach the levee along Dutchman Slough.

Component 5: Long-term monitoring.

Public Comment

Comments we receive will help us identify key concerns and issues to be evaluated in the EIS. Opportunities for public participation will occur throughout the process. 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.

Dated: August 30, 2007.

Kenneth McDermond,

Acting Manager, California/Nevada Operations, Sacramento, California.

[FR Doc. E7–17587 Filed 9–5–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Habitat Conservation Plan for the Santa Clara Valley, Santa Clara County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) and notice of public meeting.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), we, the Fish and Wildlife Service (Service), advise the public that we intend to gather information necessary to prepare, in coordination with Santa Clara County, a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) on the Habitat Conservation Plan for the Santa Clara Valley (Plan). The Plan is being prepared under Section 10(a)(1)(B) of the Federal Endangered Species Act of 1973, as amended, (Act). Santa Clara County (County) is facilitating preparation of the Plan with local partners and is the lead agency under the California Environmental Quality Act (CEQA). The County in accordance with CEQA is publishing a similar notice. The County and their local partners intend to apply for a 50-year incidental take permit from the Service and from the National Marine Fisheries Service (NMFS). These permits are needed to authorize the incidental take of threatened and endangered species that could result from activities covered under the Plan.

We provide this notice to (1) describe the proposed action and possible alternatives; (2) advise other Federal and State agencies, affected Tribes, and the public of our intent to prepare an EIS/EIR; (3) announce the initiation of a public scoping period; and (4) obtain suggestions and information on the scope of issues and alternatives to be included in the EIS/EIR.

DATES: Submit written comments on or before October 22, 2007. One public scoping meeting will be held on Wednesday, September 26, 2007, from 7 p.m. to 9 p.m. The public scoping meeting will be combined with a pre-scheduled community meeting for the Plan.

ADDRESSES: The public meeting will be held at the Morgan Hill Community and Cultural Center, 17000 Monterey Road, Morgan Hill, CA 95037. Submit written comments to Lori Rinek, Chief, Conservation Planning and Recovery Division, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825. Comments may also be sent by facsimile to (916) 414–6713.

FOR FURTHER INFORMATION CONTACT: Cori Mustin, Senior Fish and Wildlife Biologist, Sacramento Fish and Wildlife Office at (916) 414–6600.

SUPPLEMENTARY INFORMATION:

Reasonable Accommodation

Persons needing reasonable accommodations in order to attend and participate in the public meeting should contact Cori Mustin at (916) 414–6600 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

Background

The Plan is both a habitat conservation plan (HCP), intended to fulfill the requirements of the Endangered Species Act, and a natural community conservation plan (NCCP), to fulfill the requirements of the California Natural Community Conservation Planning Act (NCCP Act). The Plan is being prepared under the combined efforts of eight local and state agencies: Santa Clara County, the City of San José, the City of Morgan Hill, the City of Gilroy, the Santa Clara Valley Water District (SCVWD), the Santa Clara Valley Transportation Authority (VTA), the Santa Clara County Open Space Authority, and the California Department of Parks and Recreation, collectively referred to as the Local Partners. Furthermore, efforts have included coordination with the California Department of Fish and Game (CDFG) as a CEQA Responsible and Trustee Agency and the National Oceanic and Atmospheric Administration, NMFS is a Cooperating Agency under NEPA.

Species proposed for coverage in the Plan are species that are currently listed as federally threatened or endangered or have the potential to become listed during the life of this Plan and have some likelihood to occur within the project area. Should any of these unlisted covered wildlife species become listed under the Act during the term of the permit, take authorization for those species would become effective upon listing. The Plan will provide long-term conservation and management of these species. Species may be added or deleted during the course of the development of the Plan based on further analysis, new information, agency consultation, and public comment. The Plan addresses 30 listed and non-listed species: 15 wildlife species and 15 plant species. Federally listed species proposed for coverage under the Plan include: the bay checkerspot butterfly (*Euphydryas editha bayensis*), south-central California coastal steelhead (*Oncorhynchus mykiss*), central California coastal steelhead (*O. mykiss*), central valley fall-run Chinook salmon (*O. tshawytscha*), California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana aurora draytonii*), least Bell's vireo (*Vireo bellii pusillus*), San Joaquin kit fox (*Vulpes macrotis mutica*), Tiburon Indian paintbrush (*Castilleja affinis* ssp. *neglecta*), coyote ceanothus (*Ceanothus ferrisae*), Santa Clara Valley dudleya (*Dudleya setchellii*), and Metcalf Canyon jewelflower (*Streptanthus albidus* ssp. *albidus*). The unlisted species proposed for coverage under the Plan include: Pacific lamprey (*Lampetra tridentata*), foothill yellow-legged frog (*Rana boylii*), western pond turtle (*Clemmys marmorata*), golden eagle (*Aquila chrysaetos*), western burrowing owl (*Athene cunicularia hypugaea*), tricolored blackbird (*Agelaius tricolor*), Pacific Townsend's [=western] big-eared bat (*Corynorhinus townsendii townsendii*), big scale balsamroot (*Balsamorhiza macrolepis*), chaparral harebell (*Campanula exigua*), Mount Hamilton thistle (*Cirsium fontinale* var. *campylon*), San Francisco collinsia (*Collinsia multicolor*), fragrant fritillary

(*Fritillaria liliacea*), Loma Prieta hoita (*Hoita strobilina*), smooth lessingia (*Lessingia micradenia* var. *glabrata*), Hall's bush mallow (*Malacothamnus hallii*), robust monardella (*Monardella villosa* ssp. *globosa*), rock sanicle (*Sanicula saxatilis*), and most beautiful jewelflower (*Streptanthus albidus* ssp. *peramoenus*).

Section 9 of the Act and Federal regulations prohibit the ''take'' of wildlife species listed as endangered or threatened (16 U.S.C. 1538). The Act defines the term ''take'' as: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to engage in such conduct (16 U.S.C. 1532). Harm includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Pursuant to Section 10(a)(1)(B) of the Act, we may issue permits to authorize ''incidental take'' of listed species. ''Incidental take'' is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Service regulations governing permits for threatened species and endangered species, respectively, are promulgated in 50 CFR 17.32 and 50 CFR 17.22. NMFS regulations governing permits for threatened and endangered species of salmonids that may be covered in the Plan are promulgated in 50 CFR 222.22.

Take of listed plant species is not prohibited under the Act, and cannot be authorized under a Section 10 permit. We propose to include plant species on the permit in recognition of the conservation benefits provided for them under an HCP. For the purposes of the Plan, certain plant species are further included to meet regulatory obligations under Section 7 of the Act and the California Endangered Species Act (CESA). All species included on an incidental take permit would receive assurances under the Service's ''No Surprises'' regulations found in 50 CFR 17.22(b)(5) and 17.32(b)(5).

The Plan would result in take authorization for otherwise lawful actions, such as public and private development that may incidentally take or harm animal species or their habitats within the Plan area, and the formation and management of a conservation program for covered species. The Local Partners will request incidental take coverage for the following seven categories of covered activities: (1) Urban development, (2) in-stream capital projects, (3) in-stream operation and maintenance activities, (4) rural capital projects, (5) rural operations and maintenance activities, (6) rural development, and (7) conservation strategy implementation.

The study area includes approximately 518,819 acres, or approximately 62 percent of Santa Clara County. The study area was defined as the area in which covered activities would occur, impacts would be evaluated, and conservation activities would be implemented. The boundary of the study area was based on political, ecological, and hydrologic factors. The study area includes the Pajaro River watershed within Santa Clara County including all or a portion of the Llagas, Uvas, Pescadero and Pacheco sub-watersheds and the Coyote Creek watershed with the exception of the Baylands region. A large portion of the Guadalupe watershed is within the study area, as well as small areas outside of each of these watersheds.

Environmental Impact Statement/ Report

The EIS/EIR will consider the proposed action (i.e., the issuance of a Section 10(a)(1)(B) permit under the Act), no action (no project/no Section 10 permit), and a reasonable range of alternatives. A detailed description of the proposed action and alternatives will be included in the EIS/EIR. The alternatives to be considered for analysis in the EIS/EIR may include: Modified lists of covered species, land coverage areas, and extent of future conservation efforts. The EIS/EIR will also identify potentially significant impacts on biological resources, land use, air quality, water quality, economics, and other environmental resource issues that could occur directly or indirectly with implementation of the proposed action and alternatives. Different strategies for avoiding, minimizing and mitigating the impacts of incidental take may also be considered.

Environmental review of the EIS/EIR will be conducted in accordance with the requirements of NEPA (42 U.S.C. 4321 *et. seq.*), its implementing regulations (40 CFR parts 1500–1508), other applicable regulations, and Service procedures for compliance with those regulations. This notice is being furnished in accordance with 40 CFR Section 1501.7 and 1508.22 to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS/EIR. The primary purpose of the scoping process is to identify important issues raised by the public related to the proposed action. Written comments from interested parties are invited to ensure that the full range of issues related to the permit application is identified. Comments will only be accepted in written form. You may submit written comments by mail, facsimile transmission, or in person (see **ADDRESSES**). All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

Our practice is to make comments, including names, home addresses, home phone numbers, and email addresses of respondents available for public review. Individual respondents may request that we withhold their names and/or home addresses, etc., but if you wish us to consider withholding this information you must state this prominently at the beginning of your comments. In addition, you must present a rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organization or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Dated: August 30, 2007.

Ken McDermond,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. E7–17588 Filed 9–5–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–910–07–1990–EX, 7–08808]

Notice of Availability of Draft Supplemental Environmental Impact Statement for Newmont Mining Corporation's Leeville Project, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA, 42 U.S.C. 4321, *et seq.*), the Bureau of Land Management (BLM), Elko Field Office has prepared a Draft Supplemental Environmental Impact Statement (SEIS) for Newmont Mining Corporation's Leeville gold mine in Eureka and Elko counties, Nevada, and by this notice is announcing the opening of the comment period.

DATES: To assure they will be considered, the BLM must receive written comments on the Draft SEIS within 60 days following the date the Environmental Protection Agency publishes their Notice of Availability in the **Federal Register**.

ADDRESSES: You may submit comments by the following methods: Fax: (775) 753–0255, Mail: Leeville Project Manager, BLM Elko Field Office, 3900 East Idaho Street, Elko, NV 89801.

FOR FURTHER INFORMATION CONTACT: Deb McFarlane, BLM Elko Field Office, 3900 East Idaho Street, Elko, NV 89801, (775) 753–0200.

SUPPLEMENTARY INFORMATION: The BLM signed a Record of Decision (ROD) for Newmont Mining Corporation's Leeville Project, an underground gold mine located on the Carlin Trend in northeastern Nevada, on September 25, 2002. The Leeville Mine includes three main ore bodies located approximately 2,500 feet below ground surface. Newmont is authorized to construct ancillary mine facilities, including construction of five shafts to access the ore bodies, shaft hoists, waste rock disposal facility, refractory ore stockpiles, facilities to support mine dewatering, and facilities to support backfill operations. Surface disturbance totals 486 acres. Four years of legal review resulted in a decision by the United States Court of Appeals for the Ninth Circuit holding that portions of the cumulative effects analysis were insufficient. In response, the BLM has updated the cumulative effects analyzed in Chapter 4 of the 2002 EIS, including information on any new or proposed projects that could contribute cumulative effects, and has issued this Draft SEIS which analyzes the cumulative effects analysis for Newmont Mining Corporation's Leeville gold mine in Eureka and Elko counties, Nevada. A copy of the Draft SEIS may be obtained from: Bureau of Land Management, Elko Field Office, 3900 Idaho Street, Elko, Nevada 89801. The Draft SEIS may also be found on the Elko Field Office Internet site at: *http://www.blm.gov/nv/st/en/fo/elko_field_office/blm_information/nepa.htm.* Comments, including names and street addresses of respondents, will be available for public review at the above address during regular business hours 7:30 a.m. to 4:30 p.m., Monday through Friday, except holidays, and may be published as part of the Final SEIS.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Ron Wenker,

State Director, Nevada.

[FR Doc. 07–4340 Filed 8–31–07; 2:38 pm]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–910–07–1990–EX, 7–08808]

Notice of Availability of Draft Supplemental Environmental Impact Statement for Newmont Mining Corporation's South Operations Area Project Amendment, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA, 42 U.S.C. 4321, *et seq.*) the Bureau of Land Management (BLM) has prepared a Draft Supplemental Environmental Impact Statement (SEIS) for Newmont Mining Corporation's South Operations Area Project Amendment (SOAPA) in Eureka and Elko counties, Nevada, and by this notice is announcing the opening of the comment period.

DATES: To assure they will be considered, the BLM must receive written comments on the Draft SEIS within 60 days following the date the Environmental Protection Agency publishes their Notice of Availability in the **Federal Register**.

ADDRESSES: You may submit comments by the following methods: Fax: (775) 753–0255, Mail: Send to SOAPA Project Manager, BLM Elko Field Office, 3900 East Idaho Street, Elko, NV 89801.

FOR FURTHER INFORMATION CONTACT: Deb McFarlane, BLM Elko Field Office, 3900 East Idaho Street, Elko, NV 89801, (775) 753–0200.

SUPPLEMENTARY INFORMATION: The BLM signed a Record of Decision (ROD) for Newmont Mining Corporation SOAPA project located on the Carlin Trend in northeastern Nevada, on July 26, 2002. That ROD authorized Newmont to mine an additional 350 feet below what had been previously authorized, to expand 139 acres of surface occupation, to expand waste rock disposal facilities and heap leach facilities, to continue dewatering and ground water discharge to Maggie Creek, and to construct associated ancillary facilities. Four years of legal review resulted in a decision by the United States Court of Appeals for the Ninth Circuit holding that portions of the cumulative effects analysis were insufficient. In response, the BLM has updated the cumulative effects analysis for Newmont Mining Corporation's SOAPA project in Chapter 5 of the 2002 EIS, including, any new or proposed projects that could contribute to cumulative effects, and has issued a Draft SEIS. A copy of the Draft SEIS may be obtained from the Bureau of Land Management, Elko Field Office, 3900 Idaho Street, Elko, Nevada 89801. The Draft SEIS may also be found on the Elko Field Office Internet site: *http://www.blm.gov/nv/st/en/fo/elko_field_office/blm_information/nepa.htm.* Comments, including names and street addresses of respondents, will be available for public review at the above address during regular business hours 7:30 a.m. to 4:30 p.m., Monday through Friday, except holidays, and may be published as part of the Final SEIS.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Ron Wenker,

State Director, Nevada.

[FR Doc. 07–4339 Filed 8–31–07; 2:38 pm]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Meeting of the California Desert Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will participate in a field tour of BLM-administered public lands on Friday, September 28, 2007 from 8 a.m. to 4 p.m., and meet in formal session on Saturday, September 29 from

8 a.m. to 3 p.m. at the BLM Needles Field Office located at 1303 S. Highway 95, Needles, CA.

The Council and interested members of the public will depart for the field tour at 8 a.m. from the lobby of the Avi Resort, 10000 Aha Macav Parkway, Laughlin, NV. The public is welcome to participate in the tour but should plan on providing their own transportation, lunch, and beverage.

Agenda topics for the formal session on Saturday will include updates by Council members and reports from the BLM District Manager and five field office managers. Additional agenda topics are being developed. Once finalized, the field tour and meeting agendas will be published in a news release prior to the meeting and posted on the BLM California state Web site at *http://www.blm.gov/ca/news/rac.html.*

SUPPLEMENTARY INFORMATION: All Desert District Advisory Council meetings are open to the public. Public comment for items not on the agenda will be scheduled at the beginning of the meeting Saturday morning. Time for public comment may be made available by the Council Chairman during the presentation of various agenda items, and is scheduled at the end of the meeting for topics not on the agenda.

While the Saturday meeting is tentatively scheduled from 8 a.m. to 3 p.m., the meeting could conclude prior to 3:00 p.m. should the Council conclude its presentations and discussions. Therefore, members of the public interested in a particular agenda item or discussion should schedule their arrival accordingly.

Written comments may be filed in advance of the meeting for the California Desert District Advisory Council, c/o Bureau of Land Management, External Affairs, 22835 Calle San Juan de Los Lagos, Moreno Valley, California 92553. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION CONTACT: Stephen Razo, BLM California Desert District External Affairs (951) 697–5217.

Dated: August 27, 2007.

Steven J. Borchard,

District Manager.

[FR Doc. E7–17580 Filed 9–5–07; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–190–07–1610]

Notice of Intent To Prepare a Resource Management Plan for the Clear Creek Management Area, California, and Associated Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) Field Office, Hollister, California, intends to prepare a Resource Management Plan (RMP) with an associated Environmental Impact Statement (EIS) for the Clear Creek Management Area (CCMA); and by this notice announces public scoping meetings. The RMP will replace the existing planning decisions for the CCMA contained in the 1984 Hollister RMP and the associated CCMA RMP Amendments (1986, 1995, 2006).

DATES: Written comments and resource information should be submitted within 30 calendar days of the last scheduled public scoping meeting. The BLM will announce public scoping meetings to identify relevant issues through local news media, newsletters, and the BLM Web site *http://www.blm.gov/ca/st/en/fo/hollister/CCMA_RMP.html* at least 15 days prior to the first meeting. The BLM will provide additional opportunities for public participation upon publication of the Draft RMP/EIS.

ADDRESSES: You may submit written scoping comments by any of the following methods:

- *E-mail: cahormp@ca.blm.gov.*
- *Fax:* (831) 630–5055.
- *Mail:* Hollister Field Office, 20 Hamilton Court, Hollister, CA 95023.

Documents pertinent to this proposal may be examined at the Hollister Field Office.

FOR FURTHER INFORMATION: For further information and/or to have your name added to our mailing list, contact Sky Murphy, Telephone (831) 630–5039; e-mail *Sky_Murphy@blm.gov.*

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM Field Office, Hollister, California intends to prepare a RMP with an associated EIS for the Clear Creek Management Area and announces public scoping meetings.

The planning area is located in southern San Benito and western Fresno counties. This planning activity encompasses approximately 63,000 acres of public land. The plan will fulfill the needs and obligations set forth by the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), and BLM management policies. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis and EIS alternatives. These issues also guide the planning process. You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. To be most helpful, you should submit formal scoping comments within 30 days after the last public meeting. The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed.

Preliminary issues and management concerns have been identified by BLM personnel, other agencies, and in meetings with individuals and user groups. They represent the BLM's knowledge to date regarding the existing issues and concerns with current land management. The major issues that will be addressed in this planning effort include: impacts to public safety and human health from naturally-occurring asbestos and past mining activities; designation and management of special management areas; ecosystem management and desired conditions; wildland and prescribed fire management; livestock grazing; motorized and non-motorized recreation management; lands available for disposal or of interest for acquisition; and potential for energy development.

Issues identified through public scoping will be placed in one of three categories:

1. Issues to be resolved in the plan;
2. Issues to be resolved through policy or administrative action; or
3. Issues beyond the scope of this plan.

The BLM will provide an explanation in the EIS as to why we placed an issue in category two or three. In addition to these major issues, a number of management questions and concerns will be addressed in the RMP. The public is encouraged to help identify these questions and concerns during the 90-day scoping period.

Preliminary planning criteria include:

1. The RMP will be developed in compliance with FLPMA, all other applicable laws, regulations, executive orders, and BLM supplemental program guidance.

2. The planning process will include an EIS that will comply with NEPA standards.

3. Economic and social baselines and consequences will be developed in coordination with local and county governments.

4. Initiate government to government consultation, including Tribal interests.

5. Consider the extent to which the revised plan reduces airborne asbestos emissions and minimizes asbestos exposure and addresses public health impact of the Hazardous Asbestos Area. (Ref; Environmental Protection Agency (EPA) Atlas Asbestos Mine Superfund Site Record of Decision (ROD), February 1991, Appendix 2, pg. 14).

6. Consider the extent to which the revised plan reduces accelerated erosion and offsite transport of asbestos fibers on vehicles and clothes due to off-highway vehicle use. (Ref; EPA Atlas Superfund Site ROD, Appendix 2, pg. 14).

7. All new data collected will have information about the data (metadata) stored in a data base. All metadata will meet the Federal Geographic Data Committee (FGDC) standards.

8. The RMP/EIS will incorporate by reference the *Standards for Rangeland Health and Guidelines for Livestock Grazing Management.*

9. The RMP will result in determinations as required by special program and resource specific guidance detailed in Appendix C of the BLM's Planning Handbook (H–1601–1).

10. Decisions in the RMP will strive to be compatible with the existing plans and policies of adjacent local, State, Tribal, and Federal agencies as long as the decisions are in conformance with legal mandates on management of public lands.

11. Resource allocations must be reasonable and achievable within available technological and budgetary constraints.

The BLM will use an interdisciplinary approach to develop the RMP in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in the planning process: rangeland management, minerals and geology, outdoor recreation, archaeology, botany, wildlife and fisheries, lands and realty, hydrology, soils, and sociology and economics.

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.

Dated: August 27, 2007.

Rick Cooper,

Hollister Field Office Manager.

[FR Doc. E7–17599 Filed 9–5–07; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Environmental Impact Statement for the General Management Plan, Harpers Ferry National Historical Park, West Virginia, Maryland and Virginia

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice of Availability of the Draft Environmental Impact Statement for the General Management Plan, Harpers Ferry National Historical Park.

SUMMARY: Pursuant to National Environmental Policy Act of 1969, 42 U.S.C. 4332(C), the National Park Service (NPS) announces the availability of a Draft Environmental Impact Statement for the General Management Plan, Harpers Ferry National Historical Park, West Virginia, Maryland and Virginia. The Draft Environmental Impact Statement for the General Management Plan analyzes the impacts of a no-action and two action alternatives. The official responsible for this decision is the NPS Regional Director, National Capital Region.

DATES: The NPS will undertake a 60-day public review of the Draft Environmental Impact Statement for the General Management Plan following publication by the Environmental Protection Agency of the Notice of Availability of the Draft Environmental Impact Statement.

ADDRESSES: Information will be available for public review in the office of the Superintendent, P.O. Box 65, Harpers Ferry, West Virginia 25425, by telephone at (304) 535–6748, and at the following locations: Office of the Chief of Planning, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242, (202) 619–7277; Office of Public Affairs, National Park Service, Department of the Interior, 1849 C Street, NW., Washington, DC 20240, (202) 208–6843; and Bolivar Harpers Ferry Public Library, 152 Polk Street, Harpers Ferry, West Virginia 25425, (304) 535–2301. Copies of the document may also be accessed via internet connection to the park Web site at *http://www.nps.gov/hafe* or directly through the NPS PEPC (Planning, Environment, and Public Comment) Web site at *http://www.parkplanning.nps.gov/parkHome.cfm?parkId=187.*

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.

FOR FURTHER INFORMATION CONTACT: Marsha Wassel, Harpers Ferry, West Virginia at (304) 535–6748.

SUPPLEMENTARY INFORMATION: Alternative 1, the no-action alternative, describes the existing conditions and trends of park management and serves as a basis for comparison in evaluating the other alternatives.

Alternative 2, the NPS preferred alternative, was developed during the ''Choosing By Advantages'' process in which the planning team identifies and compares the relative advantages of each alternative according to a set of factors. This process also establishes the relationship between the advantages and costs of each alternative. This information is used to combine the best attributes of the preliminary alternatives into the preferred alternative giving the NPS the greatest overall benefit for the most reasonable cost.

Alternative 2 takes a traditional approach in which each location within the park is managed to reflect the most significant historic period or era associated with it. An enlarged contact station on Cavalier Heights would be developed. Management activities would focus on the preservation of the resources as well as the presentation of the interpretive themes appropriate to each location. Outlying portions of the park would be connected by an auto tour and round-the-park trail system. The existing transportation system would also be expanded to include more of the park. African-American history would be elevated in prominence on Camp Hill and NPS staff would work with partners to promote protection of and visitation to sites

throughout the local area. A public/private partnership would be cultivated to rehabilitate and manage the historic Shipley School.

Alternative 3 would provide increased connections with private businesses and public/private organizations to help utilize, maintain and interpret historic structures while bringing additional life and excitement to Lower Town. A joint NPS/state tourism entrance complex would be developed. This alternative would provide enhanced visitor services ensuring visitor needs were met not only in the park but in the surrounding counties. Historic structures would be preserved and interpreted. Some structures would be leased to non-NPS entities to ensure upkeep and lessen the financial burden on the park. A new headquarters building would be developed somewhere in the Harpers Ferry vicinity. An enlarged transportation system would be operated in partnership with Main Street Harpers Ferry. A public/private partnership would be developed to rehabilitate and manage the historic Shipley School.

Dated: August 13, 2007.

Joseph M. Lawler,

Regional Director, National Capital Region.

[FR Doc. E7–17595 Filed 9–5–07; 8:45 am]

BILLING CODE 4312–JT–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Environmental Impact Statement for the General Management Plan, Monocacy National Battlefield, Maryland

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice of Availability of the Draft Environmental Impact Statement for the General Management Plan, Monocacy National Battlefield, Maryland.

SUMMARY: Pursuant to National Environmental Policy Act of 1969, 42 U.S.C. 4332(C), the National Park Service (NPS) announces the availability of the Draft Environmental Impact Statement for the General Management Plan, Monocacy National Battlefield, Maryland. The Draft Environmental Impact Statement for the General Management Plan analyzes the impacts of a no-action and three action alternatives. Alternative 4 is the NPS' preferred alternative. The official responsible for this decision is the Regional Director, National Capital Region, National Park Service.

DATES: The NPS will undertake a 60-day public review of the Draft Environmental Impact Statement for the General Management Plan following publication by the Environmental Protection Agency of the Notice of Availability of the Draft Environmental Impact Statement.

ADDRESSES: Information will be available for public review in the Office of the Superintendent, Monocacy National Battlefield, at 4801 Urbana Pike, Frederick, Maryland 21701, by telephone at (301) 662–6980 and at the following locations: Chief of Planning, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242, (202) 619–7277; Office of Public Affairs, National Park Service, Department of the Interior, 1849 C Street, NW., Washington, DC 20240, (202) 208–6843; Urbana Regional Library, 9020 Amelung Street, Frederick, Maryland 21704; and the C. Burr Artz Public Library, 110 East Patrick Street, Frederick, Maryland 21701. Copies of the document may also be accessed via Internet at *http://www.nps.gov/mono* or through the NPS PEPC (Planning, Environment and Public Comment) Web site at: *http://parkplanning.nps.gov/parkHome.cfm?parkId=192.*

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.

FOR FURTHER INFORMATION CONTACT: Susan Trail, Superintendent, Monocacy National Battlefield at 4801 Urbana Pike, Frederick, Maryland 21701, and by telephone at (301) 662–6980.

SUPPLEMENTARY INFORMATION: The no-action alternative describes the existing conditions and trends of park management and serves as a basis for comparison in evaluating the other alternatives.

Alternative 2 focuses narrowly on the story of the Battle of Monocacy, explaining troop movements, how the landscape affected the battle, and conveying an understanding of the participants. It is highly dependent upon the visitors getting out into the landscape with restored historic structures providing reference points but not being the interpretive focal point. It includes an alternative transportation system operated by a commercial entity if market conditions allow. Visitor services would be provided at the visitor center, at the Gambrill Mill, and within a rehabilitated stone house on the Thomas Farm. An existing trail from the Gambrill Mill would be extended to the site of Wallace's headquarters, a major feature of the battlefield currently not open to visitors. A small parking area and restrooms would be provided at the latter site. Administration and maintenance facilities for Monocacy National Battlefield would move into rented space outside the boundary. The Thomas House would be rehabilitated under the Historic Leasing Program. Safer access to the 14th New Jersey Monument and a designated commemorative zone for possible new monuments would be created. A deck would be constructed over Interstate Highway 270 (I–270) to connect the Thomas and Worthington farms visually and physically with continuous landscape. The deck, featuring automobile access, would only be constructed if wholly or partly covered as mitigation for impacts resulting from the widening of I–270 currently being proposed under a Draft Environmental Impact Statement prepared by Maryland State Highway Administration and the Federal Highway Administration.

Alternative 3 would expand the story of the battle, not only explaining the troop movements but describing the impact of the battle and the Civil War on Frederick and the surrounding countryside. It would focus more on the human story than Alternative 2 with exhibits in the restored Best and Worthington houses as well as the stone house on the Thomas Farm. Parking at each site would be developed. No alternative transportation system would be available in Alternative 3. Visitors would access the site via personal automobile. Visitor services would be provided at the visitor center, at the Gambrill Mill, and within a rehabilitated stone house on the Thomas Farm. The maintenance facility would remain in the current structure while administration offices would be in a rehabilitated Thomas House. A new, safer entrance to the 14th New Jersey Monument would be created across Maryland Highway 355 with access under the existing bridge. The Lewis farmstead would be accessed by trail from the Worthington parking area along Baker Road. No deck would be constructed over I–270. Monocacy National Battlefield would institute a policy of no new monuments.

Alternative 4, the NPS preferred alternative, was developed with the aid of a process called ''Choosing By Advantages'' in which the planning team identifies and compares the relative advantages of each alternative according to a set of factors. This process also establishes the relationship between the advantages and costs of each alternative. This information is used to combine the best attributes of the preliminary alternatives into the preferred alternative giving the NPS the greatest overall benefit for the most reasonable cost.

Alternative 4 would provide visitor services at the visitor center, the Gambrill Mill, and the stone house on the Thomas Farm. In addition, exhibits would be provided at the secondary house on the Best Farm and at the Worthington House. Parking at each location would be developed. There would be no alternative transportation system. Visitors would access the site via personal automobile. The maintenance facility would remain in its current structure. An existing trail from the Gambrill Mill would be extended to the site of Wallace's headquarters, a major feature of the battlefield currently not open to visitors. Administration offices would be in the rehabilitated Thomas House. Safer access to the 14th New Jersey Monument and a designated commemorative zone for possible new monuments would be developed. Instead of a deck across I–270 connecting the Worthington and Thomas farmsteads, a small pedestrian deck would be created to allow visitors to cross between the two sites.

Dated: August 13, 2007.

Joseph M. Lawler,

Regional Director, National Capital Region.

[FR Doc. E7–17594 Filed 9–5–07; 8:45 am]

BILLING CODE 4312–57–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Mall & Memorial Parks; Notice of Intent To Prepare an Environmental Impact Statement and Plan for the National Mall

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice of intent to prepare an Environmental Impact Statement and Plan for the National Mall.

SUMMARY: In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service (NPS) will be preparing an Environmental Impact Statement and Plan for the National Mall to develop a long term vision plan for the use and management of the National Mall, which has been defined by Congress as a ''substantially completed work of civic art,'' and for Pennsylvania Avenue National Historic Park. In the January 16, 2007 **Federal Register** (72 FR 1763), the NPS announced it was developing this plan. The NPS was already holding public meetings and engaging with other government agencies. The NPS has since determined it will proceed to producing an Environmental Impact Statement as part of the planning process.

DATES: Information related to public involvement opportunities will be provided at the following park Web site: *http://www.nps.gov/nationalmallplan.*

FOR FURTHER INFORMATION CONTACT: Project Executive Susan Spain, who may be contacted at National Mall & Memorial Parks, 900 Ohio Drive, SW., Washington, DC 20024, by telephone at (202) 245–4692, or by e-mail at *susan_spain@nps.gov*.

SUPPLEMENTARY INFORMATION: The planning effort will include compliance with Section 106 of the National Historic Preservation Act and other laws and requirements. The National Mall Plan will differ from an NPS General Management Plan in that it will cover a longer-term time frame and is not a plan for the entirety of the National Mall & Memorial Parks. National Mall & Memorial Parks includes many national park units throughout the Nation's Capital and this plan will address only the National Mall, which is comprised of West Potomac Park, the Washington Monument and the Mall, and the related Pennsylvania Avenue National Historic Park. A map of the study area is available at *http://www.nps.gov/nationalmallplan.* In cooperation with the agencies with jurisdiction over properties adjoining the National Mall, attention will also be given to cumulative impacts outside its boundaries that affect the integrity of the National Mall.

The Environmental Impact Statement and Plan for the National Mall will address visitor use issues such as civic space, events management, national celebrations, education, programs and recreation; and will identify types, locations, and character of needed visitor facilities and services, which could include food service, seating, lighting, restrooms, recreation, signage (orientation/way finding/education), and crowd management. The Environmental Impact Statement and Plan for the National Mall could also identify desired site improvements, such as floral displays, water features, and other embellishments that are not commemorative in nature. Additional issues may be defined or added throughout planning.

Public involvement and civic engagement will continue to be key components in the preparation of the Environmental Impact Statement and Plan for the National Mall. As a result of the decision to conduct an Environmental Impact Statement, there will be public scoping meetings and opportunities on a range of alternatives and other topics, concurrent with publication of several reports and newsletters addressing public comment and a draft range of alternatives. The thousands of comments already received by the NPS are also being considered in this process along with the information provided by cooperating agencies and others.

Dated: August 16, 2007.

Joseph M. Lawler,

Regional Director, National Capital Region.

[FR Doc. E7–17593 Filed 9–5–07; 8:45 am]

BILLING CODE 4312–39–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0020]

Standard on Manlifts; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its proposal to extend OMB approval of the information collection requirements specified in its Standard on Manlifts (29 CFR 1910.68(e)).

DATES: Comments must be submitted (postmarked, sent, or received) by November 5, 2007.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2007–0020, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., EST.

Instructions: All submissions must include the Agency name and OSHA docket number for the ICR (OSHA–2007–0020). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov*. For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled ''Supplementary Information.''

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The Standard specifies two paperwork requirements. The following sections describe who uses the information collected under each requirement as well as how they use it. The purpose of the requirements is to reduce employees' risk of death or serious injury by ensuring that manlifts are in safe operating condition.

Periodic Inspections and Records (paragraph (e)). This provision requires that each manlift be inspected at least once every 30 days. The manlift inspection is to cover at least the following items: Steps; step fastenings; rails; rail supports and fastenings; rollers and slides; belt and belt tension; handholds and fastenings; floor landings; guardrails; lubrication; limit switches; warning signs and lights; illumination; drive pulley; bottom (boot) pulley and clearance; pulley supports; motor; driving mechanism; brake; electrical switches; vibration and misalignment; and any ''skip'' on the up or down run when mounting a step (indicating worn gears). A certification record of the inspection must be made upon completion of the inspection. The record must contain the date of the inspection, the signature of the person who performed the inspection, and the serial number or other identifier of the inspected manlift.

Disclosure of Inspection Certification Records. Employers are to maintain the certification record and make it available to OSHA compliance officers. This record provides assurance to employers, employees, and compliance officers that manlifts were inspected as required by the Standard. The inspections are made to keep equipment in safe operating condition, thereby preventing manlift failure while carrying employees to elevated worksites. These records also provide the most efficient means for the compliance officers to determine that an employer is complying with the Standard.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Standard on Manlifts (29 CFR 1910.68(e)). The Agency is requesting to retain its current burden hour total of 37,801 associated with this Standard. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Standard on Manlifts (29 CFR 1910.68(e)).

OMB Number: 1218–0226.

Affected Public: Business or other for-profit.

Number of Respondents: 3,000.

Frequency: On occasion; Monthly.

Average Time Per Response: Varies from 2 minutes (.03 hour) for an employer to disclose the inspection certification record to 1 hour to inspect a manlift.

Estimated Total Burden Hours: 37,801.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2007–0020). You may supplement electronic

submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled ''Addresses''). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on August 21, 2007.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E7–17569 Filed 9–5–07; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–461]

Amergen Energy Company, LLC; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of AmerGen Energy Company, LLC (the licensee) to withdraw its November 16, 2006, application for proposed amendment to Facility Operating License No. NPF–62 for the Clinton Power Station, Unit No. 1, located in DeWitt County, Illinois.

The proposed amendment would have revised the facility technical specifications (TSs) pertaining to TS 3.6.5.1, ''Drywell,'' surveillance requirement, 3.6.5.1.3, to delay the performance of the next drywell bypass leakage rate test from the current requirement of November 23, 2008, to prior to startup from the Clinton Unit 1, refueling outage 12 (C1R12), projected for January 2010; and TS 5.5.13, ''Primary Containment Leakage Rate Testing Program,'' to delay the performance of the next primary containment Type A integrated leak rate test from the current requirement of no later than November 23, 2008, to prior to startup from the C1R12 refueling outage.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 30, 2007 (72 FR 4306). However, by letter dated April 30, 2007, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated November 16, 2006, and the licensee's letter dated April 30, 2007, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 28th day of August, 2007.

For the Nuclear Regulatory Commission.

Stephen P. Sands,

Project Manager, Plant Licensing Branch III–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E7–17600 Filed 9–5–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[DOCKET NOS. 50–272 AND 50–311]

PSEG Nuclear LLC; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of PSEG Nuclear LLC (the licensee) to withdraw its application dated August 4, 2006, as supplemented by letter dated March 8, 2007, for proposed amendment to Facility Operating License Nos. 50–272 and 50–311 for the Salem Nuclear Generating Station, Unit Nos. 1 and 2, located in Salem County, New Jersey.

The proposed amendment would have revised Technical Specification 3/4.9.3, ''Decay Time,'' to allow the movement of irradiated fuel in the reactor pressure vessel to commence at 24 hours after shutdown or at the decay time calculated using the licensee's spent fuel pool integrated decay heat management program, whichever is later. The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 19, 2006 (71 FR 75999). However, by letter dated August 13, 2007, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 4, 2006, as supplemented by letter dated March 8, 2007, and the licensee's letter dated August 13, 2007, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents

located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 29th day of August 2007.

For the Nuclear Regulatory Commission.

Richard B. Ennis,

Senior Project Manager, Plant Licensing Branch I–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E7–17606 Filed 9–5–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Proposed License Renewal Interim Staff Guidance LR–ISG–2007–02: Changes to Generic Aging Lesson Learned (GALL) Report Aging Management Program (AMP) XI.E6, ''Electrical Cable Connections Not Subject to 10 CFR 50.49 Environmental Qualification Requirements'' Solicitation of Public Comment

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on its Proposed License Renewal Interim Staff Guidance LR–ISG–2007–02 (LR–ISG) for changes to its Generic Aging Lesson Learned (GALL) Report Aging Management Program (AMP) XI.E6, ''Electrical Cable Connections Not Subject to 10 CFR 50.49 Environmental Qualification Requirements.'' This LR–ISG clarifies and recommends a one-time inspection to ensure that either aging of metallic cable connections is not occurring or an existing preventive maintenance program is effective, such that a periodic inspection is not needed. The NRC staff issues LR–ISGs to facilitate timely implementation of the license renewal rule and to review activities associated with an LRA. Upon receiving public comments, the NRC staff will evaluate the comments and make a determination to incorporate the comments, as appropriate. Once the NRC staff completes the LR–ISG, it will issue the LR–ISG for NRC and industry use. The NRC staff will also incorporate the approved LR–ISG into the next revision of the license renewal guidance documents.

DATES: Comments may be submitted by October 22, 2007. 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: Comments may be submitted to: Chief, Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments should be delivered to: 11545 Rockville Pike, Rockville, Maryland, Room T–6D59, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Persons may also provide comments via e-mail at *NRCREP@NRC.GOV.* The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by e-mail at *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Linh Tran, Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–4103 or by e-mail at *Int@nrc.gov.*

SUPPLEMENTARY INFORMATION: Attachment 1 to this **Federal Register** notice, entitled *Staff Position and Rationale for the Proposed License Renewal Interim Staff Guidance LR–ISG–2007–02: Changes to Generic Aging Lesson Learned (GALL) Report Aging Management Program (AMP) XI.E6, ''Electrical Cable Connections Not Subject to 10 CFR 50.49 Environmental Qualification Requirements,''* contains the NRC staff's rationale for publishing the proposed LR–ISG–2007–02. Attachment 2 to this **Federal Register** notice, entitled Proposed License Renewal Interim Staff Guidance LR–ISG–2007–02: Changes to Generic Aging Lesson Learned (GALL) Report Aging Management Program (AMP) XI.E6, ''Electrical Cable Connections Not Subject to 10 CFR 50.49 Environmental Qualification Requirements,'' contains the proposed revisions to GALL AMP XI.E6.

The NRC staff is issuing this notice to solicit public comments on the proposed LR–ISG–2007–02. After the NRC staff considers any public comments, it will make a determination regarding issuance of the proposed LR–ISG.

Dated at Rockville, Maryland this 29th day of August, 2007.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

Attachment 1—Staff Position and Rationale for the Proposed License Renewal Interim Staff Guidance LR–ISG–2007–02: Changes to Generic Aging Lesson Learned (GALL) Report Aging Management Program (AMP) XI.E6, ''Electrical Cable Connections Not Subject to 10 CFR 50.49 Environmental Qualification Requirements''

Staff Position

The staff is proposing to revise GALL AMP XI.E6 to recommend a one-time inspection for electrical cable connections not subject to 10 CFR 50.49 environmental qualification requirement instead of the period inspection as currently stated in GALL AMP XI.E6. The staff determined that this one-time inspection, on representative sample basis, is adequate to ensure that either aging of metallic cable connections is not occurring and/or existing preventive maintenance program is effective such that a periodic inspection program is not needed.

Rationale

In reviewing the industry's documents and comments, the staff determined that although the current GALL AMP XI.E6 was based on technical bases of Electric Power Research Institute documents, Sandia National Laboratories Report, SAND 96–0344, and thermography data, few operating experiences related to failed connection due to aging had been identified. Most of the operating experience related to failed connection are due to human errors or maintenance practices. The operating experience cannot support a periodic inspection as currently recommended in GALL AMP XI.E6. However, because there have been a limited number of age related failures of cable connections, a one-time inspection of the metallic portion of electrical cable connections is warranted. On this basis, the staff is revising GALL AMP XI.E6 to clarify and recommend a one-time inspection, on a representative sampling basis, to ensure that either aging of metallic cable connections is not occurring or an existing preventive maintenance program is effective, such that a periodic inspection is not needed.

Attachment 2—Proposed License Renewal Interim Staff Guidance LR–ISG–2007–02: Changes to Generic Aging Lesson Learned (GALL) Report Aging Management Program (AMP) XI.E6, ''Electrical Cable Connections Not Subject to 10 CFR 50.49 Environmental Qualification Requirements''

Introduction

Consistent with the requirements specified in Title 10 of the Code of Federal Regulations (10 CFR) Part 54, Section 54.4(a), electrical cable connections support safety-related and non-safety-related functions in that the failure of the electrical cable connections precludes a function from being accomplished (10 CFR 54.4(a)(1), (a)(2), and (a)(3)).

Electrical cable connections exposed to appreciable ohmic or ambient heating during operation may experience loosening caused by repeated cycling of connected loads or of the ambient temperature environment. Different materials used in various cable system components can produce situations where stresses between these components change with repeated thermal cycling. For example, under loaded conditions, ohmic heating may raise the temperature of a compression terminal and cable conductor well above the ambient temperature, thereby causing thermal expansion of both components. Thermal expansion coefficients of different materials may alter mechanical stresses between the components so that the termination may be impacted. When the current is reduced, the affected components cool and contract. Repeated cycling in this fashion can cause loosening of the termination, and may lead to high electrical resistance or eventual separation of compression-type terminations. Threaded connectors may loosen if subjected to significant thermally induced stress and cycling. Because of the potential loosening of bolted cable connections, the staff included, in its updated license renewal guidance documents, AMP XI.E6, ''Electrical Cable Connections Not Subject to 10 CFR 50.49 Environmental Qualification Requirements,'' to manage the potential aging of electrical cable connections not subject to 10 CFR 50.49 environmental qualification requirements.

Background and Discussion

The staff included AMP XI.E6, ''Electrical Cable Connections Not Subject to 10 CFR 50.49 Environmental Qualification Requirements,'' in Chapter XI of GALL Report, Revision 1, dated September 2005. By letter dated September 5, 2006, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML062770105), Nuclear Energy Institute (NEI) submitted a white paper regarding GALL AMP XI.E6 (ADAMS Accession No. ML062770111) . NEI stated that there was not enough operating experience to support a conclusion that cable connections are a significant aging concern and that the recommended program elements of GALL AMP XI.E6 duplicate aging management activities already defined and accepted in other AMPs. NEI also stated that the expanded scope of the program includes all voltage ranges regardless of the amount of evidence from operating experience. In addition, NEI identified wording in GALL AMP XI.E6 that included connections in active components. NEI asked the staff to review its white paper to eliminate GALL AMP XI.E6 or minimize its scope and redundancy so that the plant would not be burdened with activities that have no actual aging management benefit.

On November 30, 2006, the staff met with NEI representatives to discuss the white paper. In a letter dated March 16, 2007, (ADAMS Accession No. ML070400349), the staff provided responses to each of the industry's concerns identified in the white paper. By letter dated May 25, 2007, (ADAMS Accession Nos. ML071590175 and ML071590182), NEI submitted comments on the staff's responses.

In reviewing the industry's white paper and comments, the staff determined that although GALL AMP XI.E6 was based on the technical bases of Electric Power Research Institute documents, and Sandia National Laboratories Report, SAND 96–0344, little operating experience related to failed connections due to aging had been identified. Most of the operating experience related to failed connections were due to human errors or maintenance practices. The operating experience cannot support the periodic inspection recommended in AMP XI.E6 in GALL Report, Revision 1, dated September 2005. However, because there have been a limited number of age related failures of cable connections, a one-time inspection of the metallic portion of electrical cable connections is warranted. On this basis, the staff is revising GALL AMP XI.E6 to clarify and recommend a one-time inspection, on a representative sampling, to ensure that either aging of metallic cable connections is not occurring or an existing preventive maintenance program is effective, such that a periodic inspection is not required.

Proposed Action

The staff is proposing to revise GALL AMP XI.E6 to recommend a one-time inspection prior to the period of extended operation for electrical cable connections not subject to 10 CFR 50.49 EQ requirement instead of the periodic inspection currently stated in GALL AMP XI.E6. The staff determined that this one-time inspection, on a representative sample basis, is adequate to ensure that either aging of metallic cable connections is not occurring and/or the existing preventive maintenance program is effective so that a periodic inspection program is not required. The one-time inspection verifies that loosening and/or high resistance of cable connections due to thermal cycling, ohmic heating, electrical transients, vibration, chemical contamination, corrosion, and oxidation are not happening and periodic inspections are not required. The one-time inspection should include testing of a representative sample of the electrical cable connection population subject to an aging effect. The sample should include each type of electrical cable connection. The following factors shall be considered for sampling: voltage level (medium and low voltage), circuit loading (high load), and location (high temperature, high humidity, vibration, etc.). The technical basis for the sample selection should be documented. The one-time inspection will confirm that there are no aging effects that require management during the period of extended operation.

The applicant will take corrective actions when acceptance criteria are not met. Corrective actions may include, but are not limited to sample expansion, increased inspection frequency, and replacement or repair of the affected cable connection components.

When an applicant performs periodic preventive maintenance that includes inspection and testing of cable connections, the applicant can credit this maintenance activity toward GALL AMP XI.E6. The applicant may also revise its preventive maintenance procedures to cover the inspection of cable connections to take credit for GALL AMP XI.E6.

Attached is the proposed revision to GALL AMP XI.E6. Although this proposed revision does not convey a change in the regulations or how they are being interpreted, it is being provided to facilitate preparation of future submittals in support of applications for license renewal. This LR–ISG provides a clarification of existing guidance with no additional requirements.

Attachment—XI.E6 Electrical Cable Connections Not Subject to 10 CFR 50.49 Environmental Qualification Requirements (Revised)

Program Description

Cable connections are used to connect cable conductors to other cable conductors or electrical devices. Connections associated with cables within the scope of license renewal are part of this program. The most common types of connections used in nuclear power plants are splices (butt or bolted), crimp-type ring lugs, connectors, and terminal blocks. Most connections involve insulating material and metallic parts. This aging management program (AMP) focuses on the metallic parts of the electrical cable connections. This program provides a one-time inspection, on a sampling basis, to confirm the absence of age-related degradation of cable connections due to thermal cycling, ohmic heating, electrical transients, vibration, chemical contamination, corrosion, and oxidation.

Generic Aging Lesson Learned (GALL) XI.E1, ''Electrical Cables and Connections Not Subject to 10 CFR 50.49 Environmental Qualification Requirements,'' manages the aging of insulating material but not the metallic parts of the electrical connections. GALL XI.E1 is based on only a visual inspection of accessible cables and connections. Visual inspection may not be sufficient to detect the aging effects from thermal cycling, ohmic heating, electrical transients, vibration, chemical contamination, corrosion, and oxidation on the metallic parts of cable connections.

Electrical cable connections exposed to appreciable ohmic or ambient heating during operation may experience loosening caused by repeated cycling of connected loads or of the ambient temperature environment. Different materials used in various cable system components can produce situations where stresses between these components change with repeated thermal cycling. For example, under loaded conditions, ohmic heating may raise the temperature of a compression terminal and cable conductor well above the ambient temperature, thereby causing thermal expansion of both components. Thermal expansion coefficients of different materials may alter mechanical stresses between the components so that the termination may be impacted. When the current is reduced, the affected components cool and contract. Repeated cycling in this fashion can cause loosening of the termination, and may lead to high electrical resistance or eventual separation of compression-type terminations. Threaded connectors may loosen if subjected to significant thermally induced stress and cycling.

Cable connections within the scope of license renewal should be tested at least once prior to the period of extended operation to provide an indication of the integrity of the cable connections. The specific type of test to be performed and is to be a proven test for detecting loose connections, such as thermography, contact resistance testing, or another appropriate test justified in the application.

This program, as described, can be thought of as a sampling program. The following factors shall be considered for sampling: voltage level (medium and low voltage), circuit loading (high loading), and location (high temperature, high humidity, vibration, etc.). The technical basis for the sample selections should be documented. If an unacceptable condition or situation is identified in the selected sample, corrective action program will be used to evaluate the condition and determine appropriate corrective action.

SAND 96–0344, ''Aging Management Guidelines for Electrical Cable and Terminations,'' indicated loose terminations were identified by several plants. The major concern is that the failures of a deteriorated cable system (cables, connections including fuse holders, and penetrations) that could prevent it from performing its intended function. This program is not applicable to cable connections in harsh environments since they are already addressed by the requirements of 10 CFR 50.49. Even though cable connections may not be exposed to harsh environments, loosening or high resistance of connection is a concern due to aging mechanisms discussed above.

Evaluation and Technical Basis

1. Scope of Program: External connections terminating at an active or passive device are in the scope of this program. Wiring connections internal to an active assembly are considered a part of the active assembly and therefore are not within the scope of this program. This program does not include high-voltage (>35 kV) switchyard connections. The cable connections covered under the EQ program are not included in the scope of this program.

2. Preventive Actions: No actions are taken as part of this program to prevent or mitigate aging degradation.

3. Parameters Monitored/Inspected: This program will focus on the metallic parts of the connection. The monitoring includes loosening of bolted connections or high resistance of cable connections due to thermal cycling, ohmic heating, electrical transients, vibration, chemical contamination, corrosion, and oxidation. A representative sample of electrical cable connections is tested. The following factors shall be considered for sampling: voltage level (medium and low voltage), circuit loading (high load), and location (high temperature, high humidity, vibration, etc.). The technical basis for the sample selection is to be documented.

4. Detection of Aging Effects: A representative sample of electrical connections within the scope of license renewal will be tested at least once prior to the period of extended operation to confirm that there are no aging effects requiring management during the period of extended operation. Testing may include thermography, contact resistance testing, or other appropriate testing methods without removing the connection insulation such as heat shrink tape, sleeving, insulating boots, etc. The one-time inspection provides additional confirmation to support industry operating experience that shows electrical connections have not experienced a high degree of failures, and that existing installation and maintenance practices are effective.

5. Monitoring and Trending: Trending actions are not included as part of this program because it is a one-time inspection program.

6. Acceptance Criteria: The acceptance criteria for each test are to be defined for the specific type of test performed and the specific type of cable connections tested.

7. Corrective Actions: If test acceptance criteria are not met, the corrective action program will be used to perform an evaluation that will consider the extent of the condition, the indications of aging effect, and changes to the one-time inspection program. Corrective actions may include, but are not limited to sample expansion, increase inspection frequency, and replacement or repair of the affected cable connection components. As discussed in the appendix to this report, the staff finds the requirements of 10 CFR Part 50, Appendix B, acceptable to address the corrective actions.

8. Confirmation Process: As discussed in the appendix to this report, the staff finds the requirements of 10 CFR Part 50, Appendix B, acceptable to address the confirmation process.

9. Administrative Controls: As discussed in the appendix to this report, the staff finds the requirements of 10

CFR Part 50, Appendix B, acceptable to address the administrative controls.

10. Operating Experience: Electrical cable connections exposed to appreciable ohmic or ambient heating during operation may experience loosening caused by repeated cycling of connected loads or of the ambient temperature environment. There have been limited number of age related failures of cable connections reported. This one-time inspection confirms the absence of aging degradation of metallic cable connections.

References

EPRI TR–109619, *Guideline for the Management of Adverse Localized Equipment Environments,* Electric Power Research Institute, Palo Alto, CA, June 1999.

IEEE Std. P1205–2000, *IEEE Guide for Assessing, Monitoring and Mitigating Aging Effects on Class 1E Equipment Used in Nuclear Power Generating Stations.*

NUREG/CR–5643, *Insights Gained From Aging Research,* U.S. Nuclear Regulatory Commission, March 1992.

SAND96–0344, *Aging Management Guideline for Commercial Nuclear Power Plants—Electrical Cable and Terminations,* prepared by Sandia National Laboratories for the U.S. Department of Energy, September 1996.

EPRI TR–104213, *Bolted Joint Maintenance & Application Guide,* Electric Power Research Institute, Palo Alto, CA, December 1995.

Staff's Response to the NEI White Paper on Generic Aging Lessons Learned (GALL) Report Aging Management Program (AMP) XI.E6, ''Electrical Cable Connections Not Subject to 10 CFR 50.49 Environmental Qualification Requirements,'' dated March 16, 2007 (ADAMS Accession Number ML070400349)

[FR Doc. E7–17616 Filed 9–5–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Model Application Concerning Technical Specification Improvement To Revise Moderator Temperature Coefficient (MTC) Surveillance for Startup Test Activity Reduction (STAR) Program (WCAP–16011)

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability.

SUMMARY: Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC) has prepared a model safety evaluation (SE) and model license amendment request (LAR) relating to the modification of technical specification (TS) moderator temperature coefficient (MTC) surveillance requirements (SR) associated with implementation of WCAP–16011–P–A, ''Startup Test Activity Reduction (STAR) Program.'' The NRC staff has also prepared a model no significant hazards consideration (NSHC) determination relating to this matter. The purpose of these models are to permit the NRC to efficiently process amendments that propose to modify TS MTC surveillance requirements for implementing the STAR Program. Licensees of nuclear power reactors to which the models apply could then request amendments, confirming the applicability of the SE and NSHC determination to their reactors.

DATES: The NRC staff issued a **Federal Register** notice (72 FR 41360, July 27, 2007) which provided a model SE, model application, and model NSHC related to modification of TS MTC surveillance requirements. Similarly, the NRC staff herein provides a revised model SE, model LAR, and model NSHC incorporating changes based upon the public comments received. The NRC staff can most efficiently consider applications based upon the model LAR, which references the model SE, if the LAR is submitted within one year of this **Federal Register** Notice.

FOR FURTHER INFORMATION CONTACT: Timothy Kobetz, Mail Stop: O–12H2, Technical Specifications Branch, Division of Inspection & Regional Support, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1932.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Issue Summary 2000–06, ''Consolidated Line Item Improvement Process for Adopting Standard Technical Specification Changes for Power Reactors,'' was issued on March 20, 2000. The consolidated line item improvement process (CLIIP) is intended to improve the efficiency of NRC licensing processes by processing proposed changes to the standard technical specifications (STS) in a manner that supports subsequent license amendment applications. The CLIIP includes an opportunity for the public to comment on proposed changes to the STS following a preliminary assessment by the NRC staff and finding that the change will likely be offered for adoption by licensees. The CLIIP directs the NRC staff to evaluate any comments received for a proposed change to the STS and to either reconsider the change or to proceed with announcing the availability of the change for proposed adoption by licensees. Those licensees opting to apply for the subject change to technical specifications are responsible for reviewing the staff's evaluation, referencing the applicable technical justifications, and providing any necessary plant-specific information. Each amendment application made in response to the notice of availability will be processed and noticed in accordance with applicable rules and NRC procedures.

This notice involves the modification of TS MTC surveillance requirements for implementing the STAR Program. This change was proposed for incorporation into the standard technical specifications by the owners groups participants in the Technical Specification Task Force (TSTF) and is designated TSTF–486, Revision 2. TSTF–486, Revision 2, can be viewed on the NRC's Web page at *http://www.nrc.gov/reactors/operating/licensing/techspecs.html.*

Applicability

This proposal to modify TS MTC surveillance requirements for implementing the STAR Program, as proposed in TSTF–486, Revision 2, is applicable to Combustion Engineering (CE) design plants.

To efficiently process the incoming license amendment applications, the staff requests that each licensee applying for the changes proposed in TSTF–486, Revision 2, include TS Bases for the proposed TS consistent with the TS Bases proposed in TSTF–486, Revision 2. The staff is requesting that the TS Bases be included with the proposed license amendments in this case because the changes to the TS and the changes to the associated TS Bases form an integral change to a plant's licensing basis. To ensure that the overall change, including the TS Bases, includes appropriate regulatory controls, the staff plans to condition the issuance of each license amendment on the licensee's incorporation of the changes into the TS Bases document and that the licensee control changes to the TS Bases in accordance with the licensees TS Bases Control Program. The CLIIP does not prevent licensees from requesting an alternative approach or proposing the changes without the requested TS Bases. However, deviations from the approach recommended in this notice may require additional review by the NRC staff and may increase the time and resources needed for the review. Significant variations from the approach, or inclusion of additional changes to the license, will result in staff rejection of

the submittal. Instead, licensees desiring significant variations and/or additional changes should submit a LAR that does not request to adopt TSTF–486, Revision 2, under CLIIP.

Public Notices

The staff issued a **Federal Register** Notice (72 FR 41360, July 27, 2007) that requested public comment on the NRC's pending action to approve modification of TS MTC surveillance requirements for implementing the STAR Program, as proposed in TSTF–486, Revision 2. The TSTF–486, Revision 2, can be viewed on the NRC's Web page at *http://www.nrc.gov/reactors/operating/licensing/techspecs.html.* TSTF–486, Revision 2, may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible electronically from the ADAMS Public Library component on the NRC Web site, (the Electronic Reading Room) at *http://www.nrc.gov/reading-rm/adams.html.*

In response to the notice soliciting comments from interested members of the public about modifying TS MTC surveillance requirements, the staff received one set of comments (from the TSTF Owners Groups, representing licensees). The specific comments are provided and discussed below:

1. *Comment:* The Summary states that the NRC staff has prepared a model SE, model LAR, and a model NSHC. However, the last sentence of the section requests comments only on the model SE and model NSHC. Comments should also be requested on the model license amendment request as well.

Response: The staff agrees with the comment, and has accepted and addressed comments to the model license amendment below.

2. *Comment:* Model SE, section 2.1, Proposed Change, eighth bullet. This bullet describes changes to digital SR 3.1.3.2 (in STS NUREG–1432), not analog SR 3.1.3.2 as stated.

Response: The staff agrees with the comment, and the model SE, section 2.1, Proposed Change, is corrected in the notice of availability.

3. *Comment:* Model SE, section 7.0, References, Reference 4. Change ''Tevision'' to ''Revision.''

Response: The staff agrees with the comment, and the model SE, section 7.0 References, Reference 4 is corrected in the notice of availability.

4. *Comment:* Model Application, the third paragraph omits Attachment 5, which is shown in the list of Attachments below the signature.

Response: The staff agrees with the comment, and Attachment 5 is now added in the third paragraph of the model application.

5. *Comment:* Model Application. The model Application states, ''I declare under penalty of perjury under the laws of the United States of America that I am authorized by [LICENSEE] to make this request and that the foregoing is true and correct.'' This statement is not consistent with the recommended statement given in RIS 2001–18, ''Requirements for Oath or Affirmation.'' RIS 2001–18 recommends the statement, ''I declare [or certify, verify, state] under penalty of perjury that the foregoing is true and correct.'' Note that RIS 2001–18 states that this statement must be used verbatim. We recommend that the model Application be revised to be consistent with RIS 2001–18.

Response: The staff agrees with the comment, and the model Application is revised to be consistent with RIS 2001–18.

6. *Comment:* Model Application Attachment 4, the regulatory commitment states ''[LICENSEE] will establish the Technical Specification Bases for TS [3.1.3] as adopted with the applicable license amendment.'' This statement is incorrect as the Bases changes included for information with the license amendment request are not ''adopted'' with the license amendment. Bases changes are made under licensee control under the Technical Specification Bases Control Program as stated in the model Safety Evaluation. We recommend revising the commitment to state ''[LICENSEE] will implement Technical Specification Bases for TS [3.1.3] consistent with those shown in the license amendment.''

Response: The staff agrees with the comment that the commitments paragraph needs to be reworded. The paragraph now reads, ''[LICENSEE] will establish Technical Specification Bases for TS [3.1.3] consistent with those shown in the license amendment.''

7. *Comment:* Model NSHC, to be consistent with 10 CFR 50.91(a), the title of Criterion 2 should be revised to add the word ''Accident'' before ''Previously Evaluated.'' Specifically, it should state, ''The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated.''

Response: The staff agrees with the comment, and the model NSHC is corrected in the notice of availability.

Dated at Rockville, Maryland, this 29th day of August, 2007.

For the Nuclear Regulatory Commission.

Timothy J. Kobetz,

Chief, Technical Specifications Branch, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation.

Model Safety Evaluation, U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Consolidated Line Item Improvement, Technical Specification Task Force (TSTF) Change TSTF–486, Revision 2, Modification of Technical Specification Moderator Temperature Coefficient Surveillance Requirements Associated With Implementation of the Startup Test Activity Reduction (STAR) Program

1.0 Introduction

By letter dated June 3, 2005, (Reference 1) the Technical Specifications Task Force (TSTF), a joint owners group activity, submitted TSTF–486, ''Revise MTC Surveillance for Startup Test Activity Reduction (STAR) Program (WCAP–16011),'' Revision 0, for NRC review. By letter dated February 20, 2007, (Reference 2) the TSTF submitted TSTF–486, Revision 1, for NRC review. By letter dated March 10, 2007, (Reference 3) the TSTF submitted TSTF–486, Revision 2, for NRC review. TSTF–486 is proposing to change NUREG 1432, ''Standard Technical Specifications Combustion Engineering Plants,'' (CE STS) Revision 3.1 (Reference 4), to generically implement moderator temperature coefficient (MTC) surveillance requirement changes associated with implementation of WCAP–16011–P–A, ''Startup Test Activity Reduction (STAR) Program,'' (Reference 5).

WCAP–16011–P–A describes methods to reduce the time required for startup testing. To this end, WCAP–16011–P–A proposes methods to eliminate the control element assembly (CEA) worth and isothermal temperature coefficient (ITC) measurements at hot zero power (HZP). The measured ITC is used to calculate the HZP MTC. WCAP–16011–P–A includes a method to substitute the measured verification of MTC at HZP with an alternate MTC verification consisting of the predicted (calculated) MTC and measured critical boron concentration (CBC) at HZP. When this alternate MTC verification is utilized, WCAP–16011–P–A adds the requirement for the early in cycle MTC measurement to verify MTC is not more negative than allowed is also used to verify MTC is not more positive than allowed. WCAP–16011–P–A adds an ITC measurement at intermediate to hot full power (HFP) and applicability requirements for core design,

fabrication, refueling, startup testing, and CEA lifetime viability requirements. WCAP–16011–P–A methods can only be applied to cores that are well characterized by an existing database. WCAP–16011–P–A is only applicable to the particular plants that participated in its development, as indicated in the document.

TSTF–486 will provide standardized wording in the CE STS for plants implementing the WCAP–16011–P–A alternate MTC verification at startup.

2.0 Regulatory Evaluation

In 10 CFR 50.36, the Commission established its regulatory requirements related to the content of TS. Pursuant to 10 CFR 50.36, TS are required to include items in the following five specific categories related to station operation: (1) Safety limits, limiting safety system settings, and limiting control settings; (2) limiting conditions for operation (LCOs); (3) surveillance requirements (SRs); (4) design features; and (5) administrative controls. The regulations do not specify the particular requirements to be included in a plant's TS and do not explicitly prescribe specific post-refueling startup testing. However, the genesis for post-refueling startup testing can be traced to the pre-operational testing required to be specified in the Final Safety Analysis Report by 10 CFR 50.34. Additionally, 10 CFR 50.36 specifies SRs relating to test, calibration, or inspection to assure that the necessary quality of systems and components is maintained, that facility operation will be within safety limits, and that the limiting conditions for operation will be met. Additionally, 10 CFR Part 50, Appendix A, ''General Design Criteria'' (GDC) apply, in that the GDC establish the necessary design, fabrication, construction, testing, and performance requirements for structures, systems, and components important to safety. Additionally, 10 CFR Part 50, Appendix B, ''Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants'' apply, in that Criterion III ''Design Control'' requires that '' * * * measures shall provide for verifying or checking the adequacy of design, such as by the performance of design reviews, by the use of alternate or simplified calculational methods, or by the performance of a suitable testing program.'' Specifically, MTC is a parameter controlled in the licensee's TS, including surveillance requirements. As a value in the TS, MTC and the applicable SRs are subject to regulatory oversight.

2.1 Proposed Change

TSTF–486 would make the following changes to the CE STS contained in NUREG–1432.

☐ The proposed change revises the MTC (Analog) Surveillance Requirement (SR) 3.1.3.1, Surveillance, to indicate the MTC upper limit is specified in the Core Operating Limits Report (COLR).

☐ The proposed change revises the MTC (Analog) SR 3.1.3.1, Frequency, to add a requirement to verify MTC is within the upper limit within seven (7) effective full power days (EFPD) of reaching 40 EFPD of core burnup. This verification would only be required if the MTC determined prior to entering Mode 1 is determined using an adjusted, predicted MTC.

☐ The proposed change revises MTC (Analog) surveillance requirement (SR) 3.1.3.2, Note, to indicate the MTC lower limit is specified in the COLR.

☐ The proposed change revises MTC (Analog) SR 3.1.3.2, Frequency, to replace the phrase 'effective full power days' with the acronym 'EFPD.'

☐ The proposed change revises MTC (Digital) SR 3.1.3.1, Surveillance, to indicate the MTC upper limit is specified in the Core Operating Limits Report (COLR).

☐ The proposed change revises MTC (Digital) SR 3.1.3.1, Frequency, to add a requirement to verify MTC is within the upper limit within seven (7) EFPD of reaching 40 EFPD of core burnup. This verification would only be required if the MTC determined prior to entering Mode 1 is determined using an adjusted predicted MTC.

☐ The proposed change revises MTC (Digital) SR 3.1.3.2, Surveillance, and accompanying Note to indicate the MTC lower limit is specified in the COLR.

☐ The proposed change revises MTC (Digital) SR 3.1.3.2, Frequency, to replace the phrase 'effective full power days' with the acronym 'EFPD.' TSTF–486 includes changes to the CE STS Bases B 3.1.3 contained in NUREG–1432.

☐ Deletes the last sentence of the second paragraph of the Background section. (Analog) (Digital)

☐ Modifies the first sentence of the first paragraph in the LCO section to state that the COLR contains both positive and negative MTC limits. Modifies the third sentence of the first paragraph in the LCO section to state the purpose of the positive MTC limit in the COLR. (Analog) (Digital).

☐ Inserts a new paragraph in the LCO section, between the existing first and second paragraphs, into the LCO section to explain the positive MTC limits contained in CE STS LCO 3.1.3. (Analog) (Digital).

☐ Modifies the current second paragraph in the LCO section to include a discussion of how MTC may be controlled using CEA position and boron concentration. (Analog) (Digital).

☐ Modifies the Surveillance Requirements section by adding a Reviewer Note describing the use of the Alternate MTC verification method contained in WCAP–16011–P–A. (Analog) (Digital).

☐ Modifies the first paragraph of the Surveillance Requirements section, breaking it into three paragraphs. The new first paragraph consists of the first and second sentences and precedes the Reviewer's Note; the text is otherwise unchanged. The new second paragraph is the third sentence of the current first paragraph; the text is otherwise unchanged. The new third paragraph is the remainder of the current first paragraph, it is modified to state the MTC verification must occur within seven (7) effective full power days of reaching 40 effective full power days and that the MTC limits are in the COLR. (Analog) (Digital).

☐ The existing second paragraph of the Surveillance Requirements section becomes the fourth paragraph and is modified to state the end of cycle MTC limit is specified in the COLR. (Analog) (Digital).

☐ The References section is modified to add, in brackets, WCAP–16011–P–A. (Analog) (Digital).

3.0 Technical Evaluation

As stated previously, WCAP–16011–P–A describes methods to reduce the time required for startup testing. The NRC approved WCAP–16011–P–A on January 14, 2005, for referencing in license applications to the extent specified and under the limitations stated in the topical report and NRC evaluation.

CE STS SR 3.1.3.1 (Analog) and SR 3.1.3.1 (Digital) are being revised to add a frequency that is required by WCAP–16011–P–A when the alternate MTC verification method is used to verify MTC is within the upper limit during startup testing. That frequency coincides with the SR 3.1.3.2 verification that MTC is within the lower limit at 40 EFPD. This frequency is consistent with WCAP–16011–P–A and therefore acceptable.

CE STS SR 3.1.3.1 (Analog), and SR 3.1.3.1 (Digital) are also being revised to state the upper MTC limit is in the COLR. Currently, the location of the upper limit is not specified in either Analog or Digital CE STS SR. CE STS 3.1.3 (Analog) LCO states, ''The MTC

shall be maintained within the limits specified in the COLR. The maximum positive limit shall be that specified in Figure 3.1.3–1.'' Figure 3.1.3–1 is contained in the CE STS. CE STS 3.1.3 (Digital) LCO states, ''The MTC shall be maintained within the limits specified in the COLR, and a maximum positive limit as specified below:'' Two equations then follow for determining the maximum positive limit. The use of the plural in the LCO statements indicate the STS expect there to be upper and lower limits in the COLR, of which the upper limit would be bounded by the value in the TS. Therefore, specifying in the SR that the upper limit be within the COLR limit is consistent with the CE STS. The specific wording is also consistent with current phrasing in the CE STS. Therefore, this change is acceptable.

CE STS SR 3.1.3.2 (Digital) is also being revised to state the lower MTC limit is in the COLR. Currently, the location of the lower limit is specified in the Note. This change makes the CE STS SR 3.1.3.2 (Digital) consistent with the analog equivalent. The specific wording is also consistent with current phrasing in the CE STS. Therefore, this change is acceptable.

The first sentence of the Note in CE STS SR 3.1.3.2 (Analog) and SR 3.1.3.2 (Digital) is being revised from, ''If the MTC is more negative than the COLR limit * * *'' to ''If the MTC is more negative than the limit specified in the COLR * * *'' SR 3.1.3.2 (Digital) is being revised from ''Verify MTC is within the lower limit.'' to ''Verify MTC is within the lower limit specified in the COLR.'' In all instances the MTC lower limit is specified in the COLR. The revised wording is consistent with other CE STS references to the COLR. Therefore, this change is acceptable.

The revision to the CE STS Bases for B 3.1.3 (Analog) and B 3.1.3 (Digital) Background section is removing an incorrect statement in the CE STS that was identified during the staff's review associated with Reference 1. The TSTF has agreed to remove the sentence as part of TSTF–486 Revision 2. Therefore, this change is acceptable.

The modification of the first paragraph in the CE STS Bases for B 3.1.3 (Analog) and B 3.1.3 (Digital) LCO section is intended to identify the location of the upper and lower MTC limits. This change is consistent with the proposed changes to CE STS described above and therefore acceptable.

The addition of a new second paragraph in the CE STS Bases for B 3.1.3 (Analog) and B 3.1.3 (Digital) LCO section is intended to describe the purpose of the limits and reinforce that the upper MTC limit in the COLR must be bounded by that in the TS. This change is consistent with the proposed changes to CE STS described above and therefore acceptable.

The modification to the current second paragraph in the LCO section adds a discussion of how MTC may be controlled using CEA position and boron concentration. While staff acknowledges that the combination of CEA position and boron concentration can be used to control MTC, the staff believes it is an incomplete discussion that ignores the effects of temperature, pressure, and power level. However, there is no intention that the STS Basis become a tutorial. Therefore, while the discussion is incomplete it is not detrimental to safety and the change is acceptable.

The Reviewer's Note added to the Surveillance Requirements section describes the restrictions on the use of the Alternate MTC surveillance. The Reviewer's Note is consistent with WCAP–16011–P–A and therefore acceptable.

The current first paragraph of the Surveillance Requirements section is being modified by breaking it into three paragraphs.

□ The new first paragraph consists of the first and second sentences and precedes the Reviewer Note, the text is otherwise unchanged. This is an editorial change and acceptable.

□ The new second paragraph is the third sentence of the current first paragraph, the text is otherwise unchanged. Making the sentence a separate paragraph is an editorial change and acceptable.

□ The new third paragraph is the remainder of the current first paragraph; it is modified to state the MTC verification must occur within seven (7) effective full power days of reaching 40 effective full power days and that the MTC limits are in the COLR. These changes are editorial and acceptable.

Moving the existing second paragraph of the Surveillance Requirements section to become the fourth paragraph and modifying it to state the end of cycle MTC limit is specified in the COLR are editorial changes. These changes are acceptable.

Adding WCAP–16011–P–A, in brackets, to the References section is appropriate. The brackets indicate WCAP–16011–P–A is an optional reference. It would only be included on plants that have implemented the Alternate MTC surveillance. This change is acceptable.

3.1 Summary

TSTF–486 would provide standardized wording in the CE STS for plants implementing the WCAP–16011–P–A alternate MTC verification at startup. The changes to NUREG–1432 proposed by TSTF–486 have been reviewed for consistency with the current NUREG–1432 and WCAP–16011–P–A. The proposed changes have been found to be consistent with NUREG–1432 and WCAP–16011–P–A, therefore the proposed changes are acceptable.

4.0 State Consultation

In accordance with the Commission's regulations, the [ ] State official was notified of the proposed issuance of the amendment. The State official had [(1) No comments or (2) the following comments—with subsequent disposition by the staff].

5.0 Environmental Consideration

The amendments change a requirement with respect to the installation or use of a facility component located within the restricted area as defined in 10 CFR Part 20 and change surveillance requirements. [For licensees adding a TS Bases Control Program: The amendment also changes record keeping, reporting, or administrative procedures or requirements.] The NRC staff has determined that the amendments involve no significant increase in the amounts and no significant change in the types of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendments involve no significant hazards considerations, and there has been no public comment on the finding [FR]. Accordingly, the amendments meet the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9) [and (c)(10)]. Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendments.

6.0 Conclusion

The Commission has concluded, on the basis of the considerations discussed above, that (1) There is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the

common defense and security or to the health and safety of the public.

7.0 References

1. Letter from the Technical Specifications Task Force (TSTF), a joint owners group activity, re: ''TSTF–486, ''Revise MTC Surveillance for Startup Test Activity Reduction (STAR) Program (WCAP–16011),'' ''dated June 3, 2005. (ADAMS ML051580191).

2. Letter from the Technical Specifications Task Force (TSTF), a joint owners group activity, re: ''Response to NRC Request for Additional Information Regarding TSTF–486, Revision 0, ''Revise MTC Surveillance for Startup Test Activity Reduction (STAR) Program (WCAP–16011),'' and Submittal of Revision 1,'' dated February 20, 2007. (ADAMS ML070510667)

3. Letter from the Technical Specifications Task Force (TSTF), a joint owners group activity, re: ''TSTF–486, Revision 2, ''Revise MTC Surveillance for Startup Test Activity Reduction (STAR) Program (WCAP–16011),'' dated March 10, 2007. (ADAMS ML071300267).

4. NUREG 1432, ''Standard Technical Specifications Combustion Engineering Plants,'' Revision 3.1. (ADAMS ML062510040 and ML062510042).

5. WCAP–16011–P–A, ''Startup Test Activity Reduction Program,'' dated February 2005. (ADAMS ML050660127).

The following example of an application was prepared by the NRC staff to facilitate use of the Consolidated Line Item Improvement Process (CLIIP). The model provides the expected level of detail and content for an application to revise technical specifications regarding moderator temperature coefficient surveillance for Startup Test Activity Reduction (STAR) program using CLIIP. Licensees remain responsible for ensuring that their actual application fulfills their administrative requirements as well as Nuclear Regulatory Commission regulations.

U.S. Nuclear Regulatory Commission,
Document Control Desk,
Washington, DC 20555.
SUBJECT: PLANT NAME
DOCKET NO. 50–APPLICATION FOR TECHNICAL SPECIFICATION CHANGE REGARDING MODERATOR TEMPERATURE COEFFICIENT (MTC) SURVEILLANCE FOR STARTUP TEST ACTIVITY REDUCTION (STAR) PROGRAM USING THE CONSOLIDATED LINE ITEM IMPROVEMENT PROCESS

Gentleman: In accordance with the provisions of 10 CFR 50.90 [LICENSEE] is submitting a request for an amendment to the technical specifications (TS) for [PLANT NAME, UNIT NOS.].

The proposed amendment would modify TS requirements for moderator temperature coefficient (MTC) surveillance requirements (SR) associated with implementation of WCAP–16011–P–A, ''Startup Test Activity Reduction (STAR) Program.''

Attachment 1 provides a description of the proposed change, the requested confirmation of applicability, and plant-specific verifications. Attachment 2 provides the existing TS pages marked up to show the proposed change. Attachment 3 provides revised (clean) TS pages. Attachment 4 provides a summary of the regulatory commitments made in this submittal. Attachment 5 provides the proposed changes to Technical Specification Bases pages.

[LICENSEE] requests approval of the proposed License Amendment by [DATE], with the amendment being implemented [BY DATE OR WITHIN X DAYS].

In accordance with 10 CFR 50.91, a copy of this application, with attachments, is being provided to the designated [STATE] Official.

I declare [or clarify, verify, state] under penalty of perjury that the foregoing is true and correct. (Note that request may be notarized in lieu of using this oath or affirmation statement).

If you should have any questions regarding this submittal, please contact [NAME, TELEPHONE NUMBER]

Sincerely,

[Name, Title]

Attachments:

1. Description and Assessment
2. Proposed Technical Specification Changes
3. Revised Technical Specification Pages
4. Regulatory Commitments
5. Proposed Technical Specification Bases Changes

cc: NRC Project Manager; NRC Regional Office; NRC Resident Inspector; State Contact.

ATTACHMENT 1—Description and Assessment

1.0 Description

The proposed amendment would modify TS requirements for moderator temperature coefficient (MTC) surveillance requirements (SR) associated with implementation of WCAP–16011–P–A, ''Startup Test Activity Reduction (STAR) Program.''

The changes are consistent with Nuclear Regulatory Commission (NRC) approved Industry/Technical Specification Task Force (TSTF) STS change TSTF–486 Revision 2. The **Federal Register** notice published on [DATE] announced the availability of this TS improvement through the consolidated line item improvement process (CLIIP).

2.0 Assessment

2.1 Applicability of Published Safety Evaluation

[LICENSEE] has reviewed the safety evaluation dated [DATE] as part of the CLIIP. This review included a review of the NRC staff's evaluation, as well as the supporting information provided to support TSTF–486 Revision 2. [LICENSEE] has concluded that the justifications presented in the TSTF proposal and the safety evaluation prepared by the NRC staff are applicable to [PLANT, UNIT NOS.] and justify this amendment for the incorporation of the changes to the [PLANT] TS.

2.2 Optional Changes and Variations

[LICENSEE] is not proposing any variations or deviations from the TS changes described in the modified TSTF–486 Revision 2 and the NRC staff's model safety evaluation dated [DATE].

3.0 Regulatory Analysis

3.1 No Significant Hazards Consideration Determination [LICENSEE] has reviewed the proposed no significant hazards consideration determination (NSHCD) published in the **Federal Register** as part of the CLIIP. [LICENSEE] has concluded that the proposed NSHCD presented in the **Federal Register** notice is applicable to [PLANT] and is hereby incorporated by reference to satisfy the requirements of 10 CFR 50.91(a).

3.2 Verification and Commitments

As discussed in the notice of availability published in the **Federal Register** on [DATE] for this TS improvement, the [LICENSEE] verifies the applicability of TSTF–486 to [PLANT], and commits to establishing Technical Specification Bases for TS [3.1.3] as proposed in TSTF–486, Revision 2.

The proposed TSTF–486 change revises SR 3.1.3.1 in the digital and analog Combustion Engineering STS (NUREG–1432) by adding a second Frequency. This second Frequency requires verifying that MTC is within the upper limit each fuel cycle within 7 EFPD after reaching 40 EFPD of core burnup, but only when the MTC determined prior to entering MODE 1 is verified using predicted MTC as adjusted for actual RCS boron concentration. The Frequency is consistent with the existing MODE 1 MTC Surveillance Frequency. The Bases are revised to describe the new requirements and to clarify the analytical basis of the MTC utilizing the suggested changes in WCAP–16011–P. The Bases modifications clarify the relationship between the MTC limits specified in the Core Operating Limits Report (COLR) and the maximum positive MTC value specified in the LCO.

4.0 Environmental Evaluation

[LICENSEE] has reviewed the environmental evaluation included in the model safety evaluation dated [DATE] as part of the CLIIP. [LICENSEE] has concluded that the staff's findings presented in that evaluation are applicable to [PLANT] and the evaluation is hereby incorporated by reference for this application.

Attachment 2—Proposed Technical Specification Changes (Mark-Up)

Attachment 3—Proposed Technical Specification Pages

Attachment 4—List of Regulatory Commitments

The following table identifies those actions committed to by [LICENSEE] in this document. Any other statements in this submittal are provided for information purposes and are not considered to be

regulatory commitments. Please direct questions regarding these commitments to [CONTACT NAME].

Regulatory commitments	Due date/event
[LICENSEE] will establish Technical Specification Bases for TS [3.1.3] consistent with those shown in the license amendment.	[Complete, implemented with amendment OR within X days of implementation of amendment].

Attachment 5—Proposed Changes to Technical Specification Bases Pages

Proposed No Significant Hazards Consideration Determination

Description of Amendment Request: [Plant Name] requests adoption of an approved change to the standard technical specifications (STS) for Combustion Engineering (CE) Plants (NUREG–1432) and plant specific technical specifications (TS), to allow modification of TS moderator temperature coefficient (MTC) surveillance requirements (SR) associated with implementation of WCAP–16011–P–A, ''Startup Test Activity Reduction (STAR) Program,'' dated February 2005.'' The changes are consistent with NRC approved Industry/Technical Specification Task Force (TSTF) STS Traveler, TSTF–486, Revision 2, ''Revise MTC Surveillance for Startup Test Activity Reduction (STAR) Program (WCAP–16011).'' WCAP–16011–P–A describes methods to reduce the time required for startup testing. To this end, WCAP–16011–P–A proposes methods to eliminate the control element assembly (CEA) worth and isothermal temperature coefficient (ITC) measurements at hot zero power (HZP). The measured ITC is then used to calculate the HZP MTC. WCAP–16011–P–A includes a method to substitute the measured verification of MTC at HZP with an alternate MTC verification consisting of the predicted (calculated) MTC and measured critical boron concentration (CBC) at HZP. When this alternate MTC verification is utilized, WCAP–16011–P–A adds the requirement for the early in cycle MTC measurement to verify MTC is not more negative than allowed is also used to verify MTC is not more positive than allowed. WCAP–16011–P–A adds an ITC measurement at intermediate to hot full power (HFP) and applicability requirements for core design, fabrication, refueling, startup testing, and CEA lifetime viability requirements. WCAP–16011–P–A methods can only be applied to cores that are well characterized by an existing database.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change generically implements MTC SR changes associated with implementation of WCAP–16011–P–A, STAR Program. WCAP–16011–P–A describes methods to reduce the time required for startup testing. The consequences of an accident after adopting TSTF–486 are no different than the consequences of an accident prior to adoption. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. The proposed change will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously analyzed. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

TSTF–486 provides the means and standardized wording for CE STS plants implementing the previously approved WCAP–16011–P–A alternate MTC verification at startup. MTC is a parameter controlled in the licensee's TS, including surveillance requirements. As stated previously WCAP–16011–P–A describes methods to reduce the time required for startup testing. The changes to NUREG–1432 proposed by TSTF–486 have been reviewed for and found to be consistent with the current NUREG–1432 and WCAP–16011–P–A, and therefore the proposed changes are acceptable and do not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

Dated at Rockville, Maryland, this 29th day of August, 2007.

For the Nuclear Regulatory Commission.

Timothy J. Kobetz,

Section Chief, Technical Specifications Branch, Division of Inspection & Regional Support, Office of Nuclear Reactor Regulation.

[FR Doc. E7–17601 Filed 9–5–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Notice Regarding the Acceptance of Product and Country Practice Petitions for the 2007 Annual Review

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) received petitions in connection with the 2007 GSP Annual Review to modify the list of products that are eligible for duty-free treatment under the GSP program and to modify the GSP status of certain GSP beneficiary developing countries because of country practices. This notice announces the product petitions, other than those requesting competitive need limitation (CNL) waivers, and country practice petitions that are accepted for further review in the 2007 GSP Annual Review. This notice also sets forth the schedule for comment and public hearings on these petitions, for requesting participation in the hearings, and for submitting pre-hearing and post-hearing briefs. The list of accepted petitions is available at: *http://www.ustr.gov/Trade_Development/Preference_Programs/GSP/Section_Index.html* [2007 Annual review]. Petitions for CNL waivers are due November 16, 2007 (*see* 72 FR 28,527), and a review of those petitions will be conducted thereafter.

FOR FURTHER INFORMATION CONTACT: Contact the GSP Subcommittee of the Trade Policy Staff Committee, Office of the United States Trade Representative, 1724 F Street, NW., Room F–220, Washington, DC 20508. The telephone number is (202) 395–6971.

DATES: The GSP regulations (15 CFR part 2007) provide the schedule of dates for conducting an annual review unless otherwise specified in a **Federal Register** notice. The current schedule follows. Notification of any other changes will be given in the **Federal Register**.

September 21, 2007: Due date for submission of pre-hearing briefs and requests to appear at the GSP Subcommittee Public Hearing that include the name, address, telephone, fax, e-mail address and organization of witnesses for accepted product petitions.

October 3, 2007: GSP Subcommittee Public Hearing on all product petitions accepted for the 2007 GSP Annual Review in Rooms 1 and 2, 1724 F Street, NW., Washington, DC 20508, beginning at 9:30 a.m.

October 4, 2007: GSP Subcommittee Public Hearing, for all country practice petitions accepted for the 2007 GSP Annual Review in Rooms 1 and 2, 1724 F Street, NW., Washington, DC 20508, beginning at 9:30 a.m.

October 19, 2007: Due date for submission of post-hearing briefs.

January 2007: USITC scheduled to publish report on products of cases 2007–01 to 2007–11 in the 2007 GSP Annual Review. Comments on the USITC report on these products are due 10 days after USITC date of publication.

June 30, 2007: Modifications to the list of articles eligible for duty-free treatment under the GSP resulting from the 2007 Annual Review will be announced on or about June 30, 2007, in the **Federal Register**, and any changes will take effect on the effective date announced.

SUPPLEMENTARY INFORMATION: The GSP provides for the duty-free importation of designated articles when imported from designated beneficiary developing countries. The GSP is authorized by title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*), as amended (the ''1974 Act''), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

A. Petitions Requesting Modifications of Product Eligibility

In a **Federal Register** notice dated May 21, 2007, USTR announced that the deadline for the filing of product petitions, other than those requesting waivers of ''competitive need limitations'' (CNLs), and country practice petitions for the 2007 GSP Annual Review was June 22, 2007 (72 FR 28527). The product petitions received have requested changes in the list of GSP-eligible products by adding new products and by removing duty-free treatment for products from specific GSP-eligible countries.

The interagency GSP Subcommittee of the Trade Policy Staff Committee (TPSC) has reviewed the product petitions, and the TPSC has decided to accept for review the product petitions listed in ''List of Petitions Accepted in the 2007 GSP Annual Review'' posted on the USTR Web site. That list sets forth, for each type of change requested: the case number, the Harmonized Tariff Schedule of the United States (HTSUS) subheading number, a brief description of the product (see the HTSUS for an authoritative description available on the USITC Web site (*http://www.usitc.gov/tata/hts/*) and the petitioner for each petition included in this review). Acceptance of a petition for review does not indicate any opinion with respect to the disposition on the merits of the petition. Acceptance indicates only that the listed petitions have been found eligible for review by the TPSC and that such review will take place.

B. Petitions for Review Regarding Country Practices

Pursuant to 15 CFR 2007.0(b), the GSP Subcommittee of the TPSC has recommended, and the TPSC has accepted or continued the review of several country practice petitions (see ''List of Petitions Accepted in the 2007 GSP Annual Review'' posted on the USTR Web site). Acceptance of a petition for review does not indicate any opinion with respect to the disposition on the merits of the petition. Acceptance indicates only that the petition has been found eligible for review by the TPSC and that such review will take place.

Opportunities for Public Comment and Inspection of Comments

The GSP Subcommittee of the TPSC invites comments in support of or in opposition to any petition that has been accepted thus far for the 2007 GSP Annual Review. Submissions should comply with 15 CFR part 2007, except as modified below. All submissions should identify the subject article(s) in terms of the case number and eight digit HTSUS subheading number, if applicable, as shown in the ''List of Petitions Accepted in the 2007 GSP Annual Review'' available at: *http://www.ustr.gov/Trade_Development/Preference_Programs/GSP/Section_Index.html* [2007 Annual Review].

Requirements for Submissions

In order to facilitate prompt processing of submissions, USTR requires electronic e-mail submissions in response to this notice. Hand-delivered submissions will not be accepted. These submissions should be single-copy transmissions in English, with the total submission not to exceed 30 single-spaced standard letter-size pages in 12-point type and three megabytes as sent as a digital file attached to an e-mail transmission. E-mail submissions should use the following subject line: ''2007 GSP Annual Review'' followed by the Case Number and, if a product petition, the eight-digit HTSUS subheading number found in the ''List of Petitions Accepted in the 2007 GSP Annual Review'' on the USTR Web site (for example, 2007–05 7202.99.20) and, as appropriate ''Written Comments'', ''Notice of Intent to Testify'', ''Pre-hearing brief'', ''Post-hearing brief'' or ''Comments on USITC Advice''. (For example, an e-mail subject line might read ''2007–05 7202.99.20 Written Comments''.) Documents must be submitted in English in one of the following formats: WordPerfect (.WPD), Adobe (.PDF), MSWord (.DOC), or text (.TXT) files. Documents cannot be submitted as electronic image files or contain embedded images, e.g., ''.JPG'', ''.TIF'', ''.BMP'', or ''.GIF''. Supporting documentation submitted as spreadsheets are acceptable as Excel files, formatted for printing on 8½ x 11 inch paper. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

If the submission contains business confidential information, a non-confidential version of the submission must also be submitted that indicates where confidential information was redacted by inserting asterisks where material was deleted. In addition, the confidential submission must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of each page of the document. The non-confidential version must also be clearly marked at the top and bottom of each page (either ''PUBLIC VERSION'' or ''NON-CONFIDENTIAL''). Documents that are submitted without any marking might not be accepted or will be considered public documents.

For any document containing business confidential information submitted as an electronic attached file to an e-mail transmission, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the characters ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the party (government, company, union, association, etc.) which is making the submission.

E-mail submissions should not include separate cover letters or messages in the message area of the e-mail; information that might appear in any cover letter should be included directly in the attached file containing the submission itself, including the sender's name, organization name, address, telephone number and e-mail address. The e-mail address for these submissions is *FR0711@USTR.EOP.GOV*. Documents not submitted in accordance with these instructions might not be considered in this review. If unable to provide submissions by e-mail, please contact the GSP Subcommittee to arrange for an alternative method of transmission.

Public versions of all documents relating to this review will be available for review approximately two weeks after the relevant due date by appointment in the USTR public

reading room, 1724 F Street NW., Washington, DC. Appointments may be made from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, by calling (202) 395–6186.

Notice of Public Hearing

A hearing will be held by the GSP Subcommittee of the TPSC on October 3, 2007, for product petitions accepted for the 2007 GSP Annual Review (i.e., for product petitions other than those requesting CNL waivers) beginning at 9:30 a.m. at the Office of the U.S. Trade Representative, Rooms 1 and 2, 1724 F St., NW., Washington, DC 20508. A second hearing will be held by the GSP Subcommittee of the TPSC on October 5, 2007 for country practice petitions in the 2007 GSP Annual Review. The hearings will be open to the public and a transcript of the hearings will be made available for public inspection or can be purchased from the reporting company. No electronic media coverage will be allowed.

All interested parties wishing to make an oral presentation at the hearing must submit, following the above ''Requirements for Submissions'', the name, address, telephone number, and facsimile number and email address, if available, of the witness(es) representing their organization to Marideth Sandler, Executive Director of the GSP Program by 5 p.m., September 21, 2007. Requests to present oral testimony in connection with the public hearing must be accompanied by a written brief or statement, in English, and also must be received by 5 p.m., September 21, 2007. Oral testimony before the GSP Subcommittee will be limited to five-minute presentations that summarize or supplement information contained in briefs or statements submitted for the record. Post-hearing briefs or statements will be accepted if they conform with the regulations cited above and are submitted, in English, by 5 p.m., October 19, 2007. Parties not wishing to appear at the public hearing may submit pre-hearing briefs or statements, in English, by 5 p.m., September 21, 2007, and post-hearing written briefs or statements, in English, by 5 p.m., October 19, 2007.

In accordance with sections 503(d)(1)(A) of the 1974 Act and the authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, the U.S. Trade Representative has requested that the USITC provide its advice on the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the elimination of U.S. import duties for all GSP beneficiary countries or, where applicable, the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the removal from eligibility for duty-free status under GSP for such article from the specified countries, with respect to the articles that are specified in the ''List of Petitions Accepted in the 2007 GSP Annual Review.'' Comments by interested persons on the USITC Report prepared as part of the product review other than those requesting CNL waivers should be submitted by 5 p.m., 10 days after the date of USITC publication of its report.

Marideth Sandler,

Executive Director, Generalized System of Preferences (GSP) Program, Office of the U.S. Trade Representative.

[FR Doc. E7–17614 Filed 9–5–07; 8:45 am]

BILLING CODE 3190–W7–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Special 301 Out-of-Cycle Review of Brazil, the Czech Republic, and Pakistan: Request for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written submissions from the public.

SUMMARY: Section 182 of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2242), requires the United States Trade Representative (USTR) to identify countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. (Section 182 is commonly referred to as the ''Special 301'' provisions of the Trade Act.) In addition, the USTR is required to determine which of these countries should be identified as Priority Foreign Countries. Acts, policies or practices that are the basis of a country's identification as a Priority Foreign Country are normally the subject of an investigation under the section 301 provisions of the Trade Act.

On April 27, 2007, USTR announced the results of the 2007 Special 301 Review and stated that Out-of-Cycle Reviews of Brazil, the Czech Republic, and Pakistan would be conducted this year. Pursuant to these Out-of-Cycle Reviews, USTR requests written submissions from the public concerning acts, policies, and practices regarding the adequacy and effectiveness of intellectual property protection and enforcement in Brazil, the Czech Republic, and Pakistan.

DATES: Submissions must be received on or before *10 a.m. on Monday, October 15, 2007.*

ADDRESSES: All comments should be addressed to *Jennifer Choe Groves,* Director for Intellectual Property and Innovation and Chair of the Special 301 Committee, Office of the United States Trade Representative, and sent (i) Electronically, to *FR0606@ustr.eop.gov* (please note, ''FR0606'' consists of the *numbers* ''zero-six-zero-six,'') with ''Brazil, Czech Republic, Pakistan Out-of-Cycle Review'' in the subject line, or (ii) by fax, to (202) 395–9458, with a confirmation copy sent electronically to the E-mail address above.

FOR FURTHER INFORMATION CONTACT: *Jennifer Choe Groves,* Director for Intellectual Property and Innovation and Chair of the Special 301 Committee, Office of the United States Trade Representative at (202) 395–4510.

SUPPLEMENTARY INFORMATION: Pursuant to section 182 of the Trade Act, USTR must identify those countries that deny adequate and effective protection for intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. Those countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are to be identified as Priority Foreign Countries. Acts, policies or practices that are the basis of a country's designation as a Priority Foreign Country are normally the subject of an investigation under the section 301 provisions of the Trade Act.

USTR may not identify a country as a Priority Foreign Country if it is entering into good faith negotiations, or making significant progress in bilateral or multilateral negotiations, to provide adequate and effective protection of intellectual property rights.

On April 27, 2007, USTR announced the results of the 2007 Special 301 Review and stated that Out-of-Cycle Review of Brazil, the Czech Republic, and Pakistan would be conducted this year. Pursuant to these Out-of-Cycle Reviews, USTR requests written submissions from the public concerning acts, policies, and practices regarding the adequacy and effectiveness of intellectual property protection and enforcement in Brazil, the Czech Republic, and Pakistan.

Requirements for comments: Comments should include a description of experiences with respect to Brazil,

the Czech Republic, or Pakistan in the field of intellectual property rights and the effect of the acts, policies, and practices of Brazil, the Czech Republic, or Pakistan on U.S. industry. Comments should be as detailed as possible and should provide all necessary information for assessing the effect of any acts, policies, and practices of Brazil, the Czech Republic, or Pakistan. Any comments that include quantitative loss claims should be accompanied by the methodology used in calculating such estimated losses.

Comments must be in English. No submissions will be accepted via postal service mail. Documents should be submitted as either WordPerfect, MS Word, .pdf, or text (.TXT) files. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel files. All comments and supporting documentation by USTR will be made available to the public through electronic or other means. A submitter requesting that information contained in a comment be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. A non-confidential version of the comment must also be provided. For any document containing business confidential information, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the character ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the submitter. Submissions should not include separate cover letters; information that might appear in a cover letter should be included in the submission itself. To the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

DATES:

Submissions must be received on or before *10 a.m. on Monday, October 15, 2007.*

All comments should be addressed to *Jennifer Choe Groves*, Director for Intellectual Property and Innovation and Chair of the Special 301 Committee, Office of the United States Trade Representative, and sent (i) Electronically, to *FR0606@ustr.eop.gov* (please note, ''FR0606'' consists of the *numbers* ''zero-six-zero-six,'' with ''Brazil, Czech Republic, Pakistan Out-of-Cycle Review'' in the subject line, or (ii) by fax, to (202) 395–9458, with a confirmation copy sent electronically to the e-mail address above.

Public inspection of submissions: (1) Within one business day of receipt, non-confidential submissions will be placed in a public file open for inspection at the USTR reading room, Office of the United States Trade Representative, Annex Building, 1724 F Street, NW., Room 1, Washington, DC. An appointment to review the file must be scheduled at least 48 hours in advance and may be made by calling Jacqueline Caldwell at (202) 395–6186. The USTR reading room is open to the public from 10 a.m. to noon and from 1 p.m. to 4 p.m., Monday through Friday.

Christopher S. Wilson,

Acting Assistant USTR for Intellectual Property and Innovation.

[FR Doc. 07–4335 Filed 9–5–07; 8:45 am]

BILLING CODE 3190–W7–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–27]

WTO Dispute Settlement Proceeding Regarding European Communities—Regime for the Importation, Sale and Distribution of Bananas: Recourse by the United States to Article 21.5 of the DSU

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that at the request of the United States, the Dispute Settlement Body (''DSB'') of the World Trade Organization (''WTO''), has established a dispute settlement panel under the Marrakesh Agreement establishing the WTO to examine whether the European Communities (''EC'') has implemented the recommendations and rulings of the DSB in a dispute regarding the EC's import regime for bananas. The request may be found at *http://www.wto.org* contained in a document designated at WT/DS27/83 (see also the similar request by Ecuador in the document WT/DS27/80). The DSB adopted the findings of the panel and Appellate Body in this proceeding on September 25, 1997. The DSB ruled that the EC's import regime for bananas was inconsistent with the EC's obligations under the *General Agreement on Tariffs and Trade 1994* (GATT 1994) and the *General Agreement on Trade in Services* (''GATS''). An arbitrator appointed under Article 21.3 of the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU'') awarded the EC a ''reasonable period of time'' in which to come into compliance until January 1, 1999. Nearly a decade after the DSB made its original recommendations and rulings, the United States considers that the EC has failed to bring its import regime for bananas into compliance with its WTO obligation. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute, comments should be submitted on or before September 21, 2007 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically, to *FR0718@ustr.eop.gov,* with ''EC Bananas (DS27)'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the electronic mail address above, in accordance with the requirements for submissions set out below.

FOR FURTHER INFORMATION CONTACT: María L. Pagán, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395–7305.

SUPPLEMENTARY INFORMATION: USTR is providing notice that the United States has requested the establishment of a WTO dispute settlement compliance panel pursuant to the DSU. The Article 21.5 panel, which will hold its meetings in Geneva, Switzerland, is expected to issue a report on its findings and recommendations by February 29, 2008.

Prior WTO Proceedings

On September 25, 1997, the DSB adopted its recommendations and rulings in a dispute brought by the United States, Ecuador, Guatemala, Honduras, and Mexico challenging the EC's then existing import regime for bananas. The DSB ruled that the EC's import regime for bananas was inconsistent with the EC's obligations under the *General Agreement on Tariffs and Trade 1994* (GATT 1994) and the *General Agreement on Trade in Services* (GATS). An arbitrator appointed under Article 21.3 of the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU) awarded the EC a ''reasonable period of time'' in which to come into compliance until January 1, 1999. At the end of the reasonable period of time, the EC implemented a first set of changes to the import regime for bananas that were found to perpetuate a discriminatory tariff-rate quota (''TRQ'') system and license-based system in breach of the GATT 1994 and the GATS. In November

1999, the EC announced a second attempt to reform its banana regime, which would comprise a two-stage process involving a transition period during which a TRQ system would be applied with preferential access for African, Caribbean and Pacific (ACP) countries, after which a tariff-only regime would be introduced. The transition period was to end no later than January 1, 2006. This two-stage proposal was memorialized in separate understandings reached with the United States and Ecuador in April 2001. Documents related to this longstanding dispute are available in the USTR reading room and on the WTO Web site, *http://www.wto.org.*

Article 21.5 Proceeding

On January 1, 2006, the EC implemented a new import regime for bananas which consists of: (1) A zero-duty, 775,000 ton TRQ available only to bananas originating in ACP countries; and (2) an MFN duty of 176 euros per ton for all other bananas.

The United States considers that the EC has failed to implement the DSB's recommendations and rulings and that the EC's regime remains inconsistent with its WTO obligations. The United States considers that the EC's current import regime for bananas is:

(1) Inconsistent with Article I of the GATT 1994 because it applies a zero-duty TRQ to imports of bananas originating in ACP countries in a quantity up to 775,000 tons but does not accord the same duty-free treatment to imports of bananas originating in all other WTO Members; and

(2) Inconsistent with Article XIII of the GATT 1994—including Article XIII:1 and XIII:2—because it reserves the 775,000 ton zero-duty TRQ for imports of bananas originating in ACP countries but does not provide access to this preferential TRQ to imports of bananas originating in non-ACP substantial or non-substantial supplying countries.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments should be submitted (i) electronically, to *FR0718@ustr.eop.gov*, with ''EC Bananas (DS27)'' in the subject line, or (i) by fax, to Sandy McKinzy at (202) 395–3640, with a confirmation copy sent electronically to the electronic mail address above.

USTR encourages the submission of documents in Adobe PDF format as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly designated as such and ''BUSINESS CONFIDENTIAL'' must be marked at the top and bottom of the cover page and each succeeding page. Persons who submit confidential business information are encouraged to also provide a non-confidential summary of the information.

Information or advice contained in a comment submitted, other than business confidential information, may be determine by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, the submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel and, if applicable, the report of the Appellate Body. The USTR Reading Room is open to the public, by appointment only, from 10 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday. An appointment to review the public file (Docket WTO/DS–27, EC Bananas Dispute) may be made by calling the USTR Reading Room at (202) 395–6186.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 07–4341 Filed 9–5–07; 8:45 am]

BILLING CODE 3190–W7–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS350]

WTO Dispute Settlement Proceeding Regarding Measures Related to Zeroing and Certain Investigations, Administrative Reviews and Sunset Reviews Involving Products From the European Communities

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that the European Communities (''EC'') has requested the establishment of a panel under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement''). The EC alleges that various measures relating to zeroing and antidumping duty orders on certain products from the EC, and certain related matters, are inconsistent with Articles 1, 2.1, 2.4, 2.4.2, 5.8, 9.1, 9.3, 9.5, 11, and 18.4 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994* (''AD Agreement''), Article VI of the *General Agreement on Tariffs and Trade 1994* (''GATT 1994''), and Article XVI:4 of the WTO Agreement. That request may be found at *http://www.wto.org* contained in a document designated as WT/DS350/6. USTR invites written comments from the public concerning the issues raised in this dispute. In connection with the issues raised in the panel request, the public should be aware that on March 6, 2006, the Department of Commerce announced that it will no longer use ''zeroing'' when making average-to-average comparisons in an antidumping investigation. See 71 FR 11189.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before October 26, 2007 to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) Electronically, to *FR0702@ustr.eop.gov*, Attn: ''EC Zeroing II (DS350)'' in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395–

3640. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

FOR FURTHER INFORMATION CONTACT: Ronald Baumgarten, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395–9622.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (''URAA'') (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that a dispute settlement panel has been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''). The panel will hold its meetings in Geneva, Switzerland.

Major Issues Raised by the EC

With respect to the measures at issue, the EC's request for establishment of a panel refers to the following:

1. The continued application of, or the application of the specific anti-dumping duties resulting from certain anti-dumping orders specified in the EC request (see list, below) as calculated or maintained in place pursuant to the most recent administrative review or, as the case may be, original proceeding or changed circumstances or sunset review proceeding at a level in excess of the anti-dumping margin which would result from the correct application of the Anti-Dumping Agreement (whether duties or cash deposit rates or other form of measure).

2. Certain specified administrative reviews, or, as the case may be, original proceedings or changed circumstances or sunset review proceedings with the anti-dumping orders specified in the EC request (see list, below).

3. Determinations in relation to all companies and any assessment instructions, whether automatic or otherwise, issued at any time pursuant to the specified antidumping-orders.

The orders, administrative reviews, investigations, and sunset reviews specified by the EC are as follows:

Steel Concrete Reinforcing Bars from Latvia, DOC Case No. A–449–804, ITC Case No. 731–TA–878: 69 FR 74498 (December 14, 2004); 71 FR 74900 (13 December 2006); 71 FR 7016 (February 10, 2006); 72 FR 16767 (April 5, 2007) (Original Order: 66 FR 46777, 7 September 2001).

Ball Bearings from Italy, DOC Case No. A–475–801, ITC Case No. 731–TA–393: 71 FR 40064 (July 14, 2006); 70 FR 54711 (September 16, 2005); 69 FR 55574 (September 15, 2004); 68 FR 35623 (June 16, 2003); 71 FR 51850 (August 31, 2006); 71 FR 54469 (September 15, 2006). (Original Order: 15 May 1989; Continuation Order: 71 FR 54469, 15 September 2006)).

Ball Bearings from Germany, DOC Case No. A–428–801, ITC Case No. 731–TA–392: 71 FR 40064 (July 14, 2006); 70 FR 54711 (September 16, 2005); 69 FR 55574 (September 15, 2004); 69 FR 63507 (November 2, 2004); 68 FR 35623 (June 16, 2003); 70 FR 58383 (October 6, 2005); 71 FR 51850 (August 31, 2006); 71 FR 54469 (September 15, 2006).

Ball Bearings from France, DOC Case No. A–427–801, ITC Case No. 731–TA–391: 71 FR 40064 (July 14, 2006); 70 FR 54711 (September 16, 2005); 69 FR 55574 (September 15, 2004); 69 FR 62023 (October 22, 2004); 68 FR 35623 (June 16, 2003); 68 FR 43712 (July 24, 2003); 70 FR 58383 (October 6, 2005); 71 FR 51850 (August 31, 2006); 71 FR 54469 (September 15, 2006).

Stainless Steel Bar from France, DOC Case No. A–427–820: 70 FR 46482 (August 10, 2005); 71 FR 30873 (May 31, 2006). (Original Order: 67 FR 10385, 7 March 2002).

Stainless Steel Sheet and Strip in Coils from Germany, DOC Case No. A–428–825, ITC Case No. 731–TA–798: 71 FR 74897, December 13, 2006); 70 FR 73729 (December 13, 2005); 69 FR 75930 (December 20, 2004); 69 FR 6262 (February 10, 2004); 69 FR 67896 (November 22, 2004); 70 FR 41236 (July 18, 2005); 70 FR 44886 (August 4, 2005). (Original Order: 64 FR 40557, 27 July 1999; Continuation Order: 70 FR 44886, 4 August 2005).

Stainless Steel Plate in Coils from Belgium, DOC Case No. A–423–808, ITC Case. No. 731–TA–788: 70 FR 72789 (December 7, 2005); 69 FR 74495 (December 14, 2004); 70 FR 2999 (January 19, 2005); 69 FR 61798 (October 21, 2004); 70 FR 38710 (July 5, 2005); 70 FR 41202 (July 18, 2005). (Original Order: 64 FR 25288, 11 May 1999; Continuation Order: 70 FR 41202, 18 July 2005).

Ball Bearings and parts thereof from the United Kingdom, DOC Case No. A–412–801, ITC Case No. 731–TA–399: 70 FR 54711 (September 16, 2005); 69 FR 55574 (September 15, 2004); 69 FR 62023 (October 22, 2004); 70 FR 58383 (October 6, 2005); 71 FR 51850 (August 31, 2006); 71 FR 54469 (September 15, 2006).

Stainless Steel Bar from Germany, DOC Case No. A–428–830: 71 FR 42802 (July 28, 2006); 71 FR 52063 (September 1, 2006); 69 FR 113 (June 14, 2004).

Certain Hot-rolled Carbon Steel Flat Products from Netherlands, DOC Case No. A–421–807, ITC Case No. 731–TA–903: 70 FR 71523 (December 11, 2006) (Preliminary results); 70 FR 18366 (April 11, 2005); 69 FR 115 (June 16, 2004); 69 FR 43801 (July 22, 2004); 72 FR 7604 (February 16, 2007) (Preliminary Results). (Original Order: 66 FR 55637, 2 November 2001).

Stainless Steel Bar from Italy, DOC Case No. A–475–829, 69 FR 113 (June 14, 2004). (Original Order: 67 FR 10384, 7 March 2002).

Stainless Steel Sheet and Strip in Coils from Italy, DOC Case No. A–475–824, ITC Case No. 731–TA–799: 70 FR 7472 (February 14, 2005); 70 FR 13009 (March 17, 2005); 68 FR 69382 (December 12, 2003); 69 FR 67896, November 22, 2004; 70 FR 41236 (July 18, 2005); 70 FR 44886 (August 4, 2005). (Original Order: 64 FR 40567, 27 July 1999; Continuation Order: 70 FR 44886, 4 August 2005).

Certain Pasta from Italy, DOC Case No. A–475–818, ITC Case No. 731–TA–734: 72 FR 7011 (February 14, 2007); 70 FR 71464 (November 29, 2005); 70 FR 6832 (February 9, 2005); 69 FR 6255 (February 10, 2004); 69 FR 81 (April 27, 2004); 72 FR 5266 (February 5, 2007). (Original Order 61 FR 143, 24 July 1996; Continuation Order 66 FR 55160, 1 November 2001).

Brass Sheet and Strip from Germany, DOC Case No. A–428–602, ITC Case No. 731–TA–317: 71 FR 4348 (January 26, 2006); 71 FR 14719 (March 23, 2006); 71 FR 16552 (April 3, 2006). (Original Order: 6 March 1987).

Purified carboxymethylcellulose from Sweden, DOC Case No. A–401–808, ITC Case No. 731–TA–1087: 70 FR 28278 (May 17, 2005); 70 FR 39334 (July 7, 2005); 70 FR 39734 (July 11, 2005).

Purified carboxymethylcellulose from the Netherlands, DOC Case No. A–421–811, ITC Case No. 731–TA–1086;

Purified carboxymethylcellulose from Finland, DOC Case No. A–405–803, ITC Case No. 731–TA–1084: 70 FR 28275 (May 17, 2005); 70 FR 39334 (July 7, 2005); 70 FR 39734 (July 11, 2005).

Chlorinated isocyanurates from Spain, DOC Case No. A–469–814, ITC Case No. 731–TA–1083: 70 FR 24506 (May 10, 2005); 70 FR 36205 (June 22, 2005); 70 FR 36562 (June 24, 2005).

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit their comments either (i) Electronically, to *FR0702@ustr.eop.gov*,

Attn: ''EC Zeroing II (DS350)'' in the subject line, or (ii) by fax to Sandy McKinzy at (202) 395–3640. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, the submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel, and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS–350, EC Zeroing II) may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

Daniel E. Brinza,

Assistant United States Trade Representative, for Monitoring and Enforcement.

[FR Doc. E7–17563 Filed 9–5–07; 8:45 am]

BILLING CODE 3190–W7–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meetings

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Federal Prevailing Rate Advisory Committee will be held on Thursday, October 11, 2007. The meetings will start at 10 a.m. and will be held in Room 5A06A, U.S. Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The planned agenda for the Committee meeting includes—

Old Business

- Working Group—Strategic vs. Tactical Issues
- Review of the Narragansett Bay, Rhode Island, Federal Wage System Wage Area
- Review of the New Haven-Hartford, Connecticut, Federal Wage System Wage Area
- Review of the New London, Connecticut, Federal Wage System Wage Area

New Business

- Definition of the Municipality of Bayamón, Puerto Rico, to a Nonappropriated Fund Federal Wage System Wage Area
- Abolishment of Rock Island, Illinois, as a Nonappropriated Fund Federal Wage System Wage Area
- North American Industry Classification System Based Federal Wage System Wage Surveys (2007 Update)

Note: The Committee's agenda may be subject to change.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the U.S. Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meetings either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the U.S. Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of a meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee at U.S. Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5526, 1900 E Street, NW., Washington, DC 20415, (202) 606–2838.

Dated: August 30, 2007.

Charles E. Brooks,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. E7–17641 Filed 9–5–07; 8:45 am]

BILLING CODE 6325–49–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request; copies available from: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Regulation A; OMB Control No. 3235–0286; SEC File No. 270–110 (Forms 1–A and 2–A).

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.

Regulation A (17 CFR 230.251 through 230.263) provides an exemption from registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) for certain limited securities offerings by issuers who do not otherwise file reports with the Commission. Form 1–A is an offering statement filed under Regulation A. Form 2–A is used to report sales and use of proceeds in Regulation A offerings. All information is provided to the public for review. The information required is filed on occasion and is mandatory. We estimate approximately 100 issuers file Forms 1–A and 2–A annually. We estimate that Form 1–A takes 608 hours to prepare, Form 2–A takes 12 hours to prepare, and Regulation A takes one administrative hour to review for a total of 621 hours per response. We estimate that 75% of 621 hours per response (465.75 hours) is prepared by the company for a total annual burden of 46,575 hours (465.75 x 100 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 *Alexander_T._Hunt@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

August 30, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17574 Filed 9–5–07; 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 Investor Education and Advocacy, Washington, DC 20549–0213.

Extension: Form N–1A; SEC File No. 270–21; OMB Control No. 3235–0307.

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.

Form N–1A (17 CFR 239.15A and 274.11A) is the form used by open-end management investment companies (''funds'') [1] under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') and/or to register their securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act''). Section 5 of the Securities Act (15 U.S.C. 77e) requires the filing of a registration statement prior to the offer of securities to the public and that the statement be effective before any securities are sold, and Section 8 of the Investment Company Act (15 U.S.C. 80a–8) requires a fund to register as an investment company. Form N–1A also permits funds to provide investors with a prospectus and a statement of additional information (''SAI'') covering essential information about the fund when it makes an initial or additional offering of its securities. Section 5(b) of the Securities Act requires that investors be provided with a prospectus containing the information required in a registration statement prior to the sale or at the time of confirmation or delivery of the securities. The form also may be used by the Commission in its regulatory review, inspection, and policy-making roles.

The Commission estimates that there are 77 initial registration statements and 2,320 post-effective amendments to initial registration statements filed on Form N–1A annually and that the average number of portfolios referenced in each initial filing and post-effective amendment is 4.9. The Commission further estimates that the hour burden for preparing and filing a post-effective amendment on Form N–1A is 111 hours per portfolio. The total annual hour burden for preparing and filing post-effective amendments is 1,261,848 hours (2,320 post-effective amendments × 4.9 portfolios × 111 hours per portfolio). The estimated annual hour burden for preparing and filing initial registration statements is 313,336 hours (77 initial registration statements × 4.9 portfolios × 830.47 hours per portfolio). The total annual hour burden for Form N–1A, therefore, is estimated to be 1,575,184 hours (1,261,848 hours + 313,336 hours).

The information collection requirements imposed by Form N–1A 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.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to: *Alexander_T._Hunt@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA, 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

August 27, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17575 Filed 9–5–07; 8:45 am]

BILLING CODE 8010–01–P

[1] Management investment companies typically issue shares representing an undivided proportionate interest in a changing pool of securities, and include open-end and closed-end companies. See T. Lemke, G. Lins, A. Smith III, REGULATION OF INVESTMENT COMPANIES, Vol. I, ch. 4, § 4.04, at 4–5 (2002). An open-end company is a management company that is offering for sale or has outstanding any redeemable securities of which it is the issuer. A closed-end company is any management company other than an open-end company. See Section 5 of the Investment Company Act (15 U.S.C. 80a–5). Open-end companies generally offer and sell new shares to the public on a continuous basis. Closed-end companies generally engage in traditional underwritten offerings of a fixed number of shares and, in most cases, do not offer their shares to the public on a continuous basis.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange

Commission, Office of Investor Education and Advocac, Washington, DC 20549–0213.

Extension:

Regulation S; OMB Control No. 3235–0357; SEC File No. 270–315.

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.

Regulation S (17 CFR 230.901 through 230.905) includes rules governing offers and sales of securities made outside the United States without registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). The purpose of Regulation S is to provide clarification of the extent to which Section 5 of the Securities Act applies to sales and re-sales of securities outside of the United States. Regulation S is assigned one burden hour for administrative convenience.

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 *Alexander_T._Hunt@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

August 30, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17576 Filed 9–5–07; 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 Investor Education and Advocacy, Washington, DC 20549–0213.

Approval of Existing Information Collection:

Rule 17a–8; SEC File No. 270–225; OMB Control No. 3235–0235.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), 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.

Rule 17a–8 (17 CFR 270.17a–8) under the Investment Company Act of 1940 (the ''Act'') (15 U.S.C. 80a) is entitled ''Mergers of affiliated companies.'' Rule 17a–8 exempts certain mergers and similar business combinations (''mergers'') of affiliated registered investment companies (''funds'') from prohibitions under section 17(a) of the Act (15 U.S.C. 80a–17(a)) on purchases and sales between a fund and its affiliates. The rule requires fund directors to consider certain issues and to record their findings in board minutes. The rule requires the directors of any fund merging with an unregistered entity to approve procedures for the valuation of assets received from that entity. These procedures must provide for the preparation of a report by an independent evaluator that sets forth the fair value of each such asset for which market quotations are not readily available. The rule also requires a fund being acquired to obtain approval of the merger transaction by a majority of its outstanding voting securities, except in certain situations, and requires any surviving fund to preserve written records describing the merger and its terms for six years after the merger (the first two in an easily accessible place).

The average annual burden of meeting the requirements of rule 17a–8 is estimated to be 7 hours for each fund. The Commission staff estimates that each year approximately 920 funds rely on the rule. The estimated total average annual burden for all respondents therefore is 6,440 hours.

This estimate represents an increase of 2,240 hours from the prior estimate of 4,200 hours. The increase results from an increase in the estimated number of mergers of affiliated funds and fund portfolios.

The average cost burden of preparing a report by an independent evaluator in a merger with an unregistered entity is estimated to be $15,000. The average net cost burden of obtaining approval of a merger transaction by a majority of a fund's outstanding voting securities is estimated to be $75,000. The Commission staff estimates that each year approximately 15 mergers with unregistered entities occur and approximately 22 funds hold shareholder votes that would not otherwise have held a shareholder vote to comply with state law. The total annual cost burden of meeting these requirements is estimated to be $1,875,000

The estimates of average burden hours and average cost burdens are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study. 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.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to: *Alexander_T._Hunt@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

August 30, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17583 Filed 9–5–07; 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 Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17f–4; SEC File No. 270–232; OMB Control No. 3235–0225.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the

previously approved collection of information discussed below.

Section 17(f) (15 U.S.C. 80a–17(f)) under the Investment Company Act of 1940 (the ''Act'')[1] permits registered management investment companies and their custodians to deposit the securities they own in a system for the central handling of securities (''securities depositories''), subject to rules adopted by the Securities and Exchange Commission (''Commission'').

Rule 17f–4 (17 CFR 270.17f–4) under the Act specifies the conditions for the use of securities depositories by funds[2] and custodians. The Commission staff estimates that 129 respondents (including 40 active funds, 73 custodians, and 16 possible securities depositories)[3] are subject to the requirements in rule 17f–4. The rule is elective, but most, if not all, funds use depository custody arrangements.[4]

Rule 17f–4 contains two general conditions. First, a fund's custodian must be obligated, at a minimum, to exercise due care in accordance with reasonable commercial standards in discharging its duty as a securities intermediary to obtain and thereafter maintain financial assets.[5] This obligation does not contain a collection of information because it does not impose identical reporting, recordkeeping or disclosure requirements. Funds and custodians may determine the specific measures the custodian will take to comply with this obligation.[6] If the fund deals directly with a depository, the depository's contract or written rules for its participants must provide that the depository will meet similar obligations.[7] All funds that seek to rely on rule 17f–4 should have either modified their contracts with the relevant securities depository, or negotiated a modification in the securities depository's written rules when the rule was amended. Therefore, this was a one-time event and does not contain a collection of information.[8]

Second, the custodian must provide, promptly upon request by the fund, such reports as are available about the internal accounting controls and financial strength of the custodian.[9] If a fund deals directly with a depository, the depository's contract with or written rules for its participants must provide that the depository will provide similar financial reports.[10] Custodians and depositories usually transmit financial reports to funds twice a year.[11] The Commission staff estimates that 73 custodians spend 920 hours (by support staff) annually in transmitting such reports to funds.[12] In addition, approximately 40 funds (*i.e.*, one percent of all funds) deal directly with a securities depository and may request periodic reports from their depository. Commission staff estimates that, for each of the 40 funds, depositories spend 9 hours (by support staff) annually transmitting reports to the funds.[13] The total annual burden estimate for compliance with rule 17f–4's reporting requirement is therefore 929 hours.[14]

If a fund deals directly with a securities depository, rule 17f–4 requires that the fund implement internal control systems reasonably designed to prevent an unauthorized officer's instructions (by providing at least for the form, content, and means of giving, recording, and reviewing all officers' instructions).[15] All funds that seek to rely on rule 17f–4 should have already implemented these internal control systems when the rule was amended. Therefore, this is a one-time event and does not contain an ongoing collection of information requirement.[16]

Based on the foregoing, the Commission staff estimates that the total annual hour burden of the rule's collection of information requirement is 929 hours.

The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

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.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to: *Alexander_T._Hunt@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

August 30, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17584 Filed 9–5–07; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 80a.

[2] As amended in 2003, rule 17f–4 permits any registered investment company, including a unit investment trust or a face-amount certificate company, to use a security depository. See Custody of Investment Company Assets With a Securities Depository, Investment Company Act Release No. 25934 (Feb. 13, 2003) (68 FR 8438 (Feb. 20, 2003)). The term ''fund'' is used in this Notice to mean a registered investment company.

[3] The Commission staff estimates that, as permitted by the rule, 1% of all active funds deal directly with a securities depository instead of using an intermediary. The number of custodians is from Lipper Inc.'s Lana Database. Securities depositories include the 12 Federal Reserve Banks and 4 registered depositories.

[4] Based on responses to Item 18 of Form N–SAR (17 CFR 274.101), approximately 99 percent of all funds now use depository custody arrangements. As of March 30, 2007, approximately 3990 funds out of the 4030 active funds relied on rule 17f–4.

[5] Rule 17f–4(a)(1). This provision incorporates into the rule the standard of care provided by section 504(c) of Article 8 of the Uniform Commercial Code when the parties have not agreed to a standard. Rule 17f–4 does not impose any substantive obligations beyond those contained in Article 8. Uniform Commercial Code, Revised Article 8—Investment Securities (1994 Official Text With Comments) (''Revised Article 8'').

[6] Moreover, the rule does not impose any requirement regarding evidence of the obligation.

[7] Rule 17f–4(b)(1)(i).

[8] The Commission staff assumes that new funds relying on rule 17f–4 would choose to use a custodian instead of directly dealing with a securities depository because of the high costs associated with maintaining an account with a securities depository. Thus new funds would not be subject to this condition.

[9] Rule 17f–4(a)(2).

[10] Rule 17f–4(b)(1)(ii).

[11] The 73 custodians would handle requests for reports from 3950 fund clients (approximately 54 fund clients per custodian) and the depositories from the remaining 40 funds that choose to deal directly with a depository. It is our understanding based on staff conversations with representatives of custodians that custodians and depositories transmit these reports to clients as a good business practice regardless of whether they are requested. Therefore, for purposes of this Paperwork Reduction Act calculation, the Commission staff assumes that custodians transmit the reports to all fund clients.

[12] (73 custodians × 2 reports) = 146 reports × 54 fund clients per custodian = 7,884 transmissions. The staff estimates that each transmission would take approximately 7 minutes for a total of 920 hours (7 minutes × 7,884 transmissions). The estimate of time to transmit reports is based on staff conversations with representatives of custodians.

[13] (16 depositories × 2 reports) = 32 reports × 2.5 fund clients per depository = 80 transmissions. The staff estimates that each transmission would take approximately 7 minutes for a total of 9 hours (7 minutes × 80 transmissions).

[14] 920 hours for custodians and 9 hours for securities depositories.

[15] Rule 17f–4(b)(2).

[16] The Commission staff assumes that new funds relying on rule 17f–4 would choose to use a custodian instead of directly dealing with a securities depository because of the high costs associated with maintaining an account with a securities depository. Thus new funds would not be subject to this condition.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Rule 206(4)–2, SEC File No. 270–217, OMB Control No. 3235–0241

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 and revision of the previously approved collection of information discussed below.

Rule 206(4)–2 (17 CFR 275.206(4)–2) under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*) governs the custody of funds or securities of clients by Commission-registered investment advisers. Rule 206(4)–2 requires each investment adviser that has custody of client funds or securities to maintain those client funds or securities with a broker-dealer, bank or other ''qualified custodian.'' The rule also requires the adviser to promptly notify the clients as to the place and manner of custody, to send quarterly account statements to each client whose assets are in the adviser's custody, and to have an independent public accountant conduct an annual surprise examination of the custodied assets. If the qualified custodian sends monthly account statements directly to an adviser's clients, however, the adviser is relieved from sending its own account statements and undergoing an annual surprise examination. The rule exempts advisers from the rule with respect to clients that are registered investment companies. The rule also exempts advisers to limited partnerships and limited liability companies from the account statement delivery and annual surprise examination requirements if the limited partnerships or limited liability companies they advise are subject to annual audit by an independent public accountant.

Advisory clients use this information to confirm proper handling of their accounts. The Commission's staff uses the information obtained through these collections in its enforcement, regulatory and examination programs. Without the information collected under the rule, the Commission would be less efficient and effective in its programs and clients would not have information valuable for monitoring an adviser's handling of their accounts.

The respondents to this information collection are investment advisers registered with the Commission and have custody of clients' funds or securities. The staff estimates that 3352 advisers would be subject to the information collection burden under the rule 206(4)–2. The number of responses under rule 206(4)–2 will vary considerably depending on the number of clients for which an adviser has custody of funds or securities. It is estimated that the average number of responses annually for each respondent would be 247,794, and the average time of .5 hour per response would remain the same. The annual aggregate burden for all respondents to the requirements of rule 206(4)–2 is estimated to be 415,303 hours.

This collection of information is found at 17 CFR 275.206(4)–2 and is mandatory. Commission-registered investment advisers are required to maintain and preserve certain information required under rule 206(4)–2 for five years. The long-term retention of these records is necessary for the Commission's examination program to ascertain compliance with the Investment Advisers Act.

The estimated average burden hours are made solely for the purposes of Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. 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.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to: *Alexander_T._Hunt@omb.eop.gov* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

August 30, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17585 Filed 9–5–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–27960; File No. 812–13365]

Minnesota Life Insurance Company, *et al.*; Notice of Application

August 30, 2007.

AGENCY: The Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to Section 6(c) of the Investment Company Act of 1940, as amended (the ''1940 Act'') granting exemptions from the provisions of Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder.

Applicants: Minnesota Life Insurance Company (''Minnesota Life''), Variable Annuity Account (''Separate Account''), and Securian Financial Services, Inc. (''SFS'') (collectively, ''Applicants'').

Summary of Application: Applicants seek an order pursuant to Section 6(c) of the 1940 Act, exempting them from the provisions of Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder to the extent necessary to permit recapture of certain credit enhancements (''Credit Enhancements'') applied to purchase payments made in consideration of certain deferred variable annuity contracts, including data pages, riders and endorsements, described herein that Minnesota Life intends to issue (the ''Current Contracts''). Applicants also request that the exemptive relief extend to: (1) Any deferred variable annuity contracts, including data pages, riders and endorsements, substantially similar to the Current Contracts that Minnesota Life may issue in the future (the ''Future Contracts'') (Current Contracts and Future Contracts referred to collectively as the ''Contracts''); (2) any other separate accounts of Minnesota Life and their successors in interest (''Future Accounts'') that support the Contracts; and (3) any National Association of Securities Dealers, Inc. (''NASD'') member broker-dealers controlling, controlled by, or under common control with any Applicant, whether existing or created in the future, that in the future, may act as principal underwriter for the Contracts (''Future Underwriters''). The circumstances under which the Contracts would allow the recapture of all or a portion of certain Credit Enhancements (previously applied to premium payments) are where the Credit Enhancements were applied and: (1) The Contract owner exercises his or her right to cancellation or ''free look'' right to surrender the Contract; (2) in the event of death within twelve months of the Credit Enhancement being applied

(unless the Contract is continued under the surviving spouse benefit continuation option); or (3) partial withdrawal, annuitization, or surrender of the Contract in the first seven Contract Years, (pursuant to the Credit Enhancement recapture formula set forth below). A ''Contract Year'' is a period of one year beginning with the contract issue date and continuing up to, but not including, the next contract anniversary or beginning with a contract anniversary and continuing up to, but not including, the next contract anniversary.

Filing Date: The application was filed on February 15, 2007, and amended on August 27, 2007.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 24, 2007, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, c/o Michael P. Boyle, Senior Counsel, Minnesota Life Insurance Company, 400 Robert Street North, St. Paul, Minnesota 55101.

FOR FURTHER INFORMATION CONTACT: Ellen J. Sazzman, Senior Counsel, at (202) 551–6762, or Harry Eisenstein, Branch Chief, at (202) 551–6795, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application is available for a fee from the SEC's Public Reference Branch, 100 F Street, NE., Washington, DC 20549 ((202) 551–8090).

Applicants' Representations

1. Minnesota Life is a Minnesota stock life insurance company. Minnesota Life was formerly known as the Minnesota Mutual Life Insurance Company (''Minnesota Mutual''), a mutual life insurance company organized in 1880 under the laws of Minnesota. Effective October 1, 1998, Minnesota Mutual reorganized by forming a mutual insurance holding company named ''Minnesota Mutual Companies, Inc.'' Minnesota Mutual continued its corporate existence following conversion to a Minnesota stock life insurance company named Minnesota Life Insurance Company. All of the shares of the voting stock of Minnesota Life are owned by a second tier intermediate stock holding company named ''Securian Financial Group, Inc.,'' which in turn is a wholly-owned subsidiary of a first tier intermediate stock holding company named ''Securian Holding Company.'' Securian Holding Company is a wholly-owned subsidiary of the ultimate parent, Minnesota Mutual Companies, Inc.

2. Minnesota Life is authorized to sell insurance and annuities in all states (except New York), and the District of Columbia. For purposes of the 1940 Act, Minnesota Life is the depositor and sponsor for the Separate Account. Minnesota Life also serves as depositor for several other separate accounts. Minnesota Life may establish one or more additional Future Accounts for which it will serve as depositor.

3. Minnesota Life established the Separate Account as a segregated investment account under Minnesota law on September 10, 1984. Under Minnesota law, the assets of the Separate Account attributable to the Separate Account Contracts and any other variable annuity contracts through which interests in the Separate Account are issued are owned by Minnesota Life, but are held separately from all other assets of Minnesota Life, for the benefit of the owners of, and the persons entitled to payment under, Contracts issued through the Separate Account. Consequently, such assets are not chargeable with liabilities arising out of any other business that Minnesota Life may conduct. Income, gains and losses, realized or unrealized, from each sub-account of the Separate Account (described below), are credited to or charged against that sub-account without regard to any other income, gains or losses of Minnesota Life. The Separate Account is a ''separate account'' as defined by Section 2(a)(37) of the 1940 Act, is registered with the Commission as a unit investment trust (File No. 811–5626), and interests in the Separate Account offered through the Contracts are registered under the Securities Act of 1933 on Form N–4.

4. The Separate Account currently is divided into a number of sub-accounts. Each sub-account invests exclusively in shares representing an interest in a separate corresponding investment portfolio of one of several series-type, open-end management investment companies. The assets of the Separate Account support one or more varieties of variable annuity contracts. Minnesota Life may issue Future Contracts through the Separate Account. Minnesota Life also may issue Contracts through Future Accounts.

5. SFS is a wholly-owned subsidiary of Securian Financial Group, Inc., which is in turn a wholly-owned subsidiary of Securian Holding Company, which is a wholly-owned subsidiary of Minnesota Mutual Companies, Inc. SFS serves as the principal underwriter of Minnesota Life separate accounts registered as unit investment trusts under the 1940 Act, including the Separate Account, and is the distributor of variable life insurance policies and variable annuity contracts issued through such separate accounts, including the Contracts. SFS is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the NASD. SFS may act as principal underwriter for Future Accounts of Minnesota Life and as distributor for Future Contracts. Future Underwriters also may act as principal underwriter for the Accounts and as distributor for any of the Contracts.

6. The Contracts are deferred combination variable and fixed annuity contracts that Minnesota Life may issue to individuals on a ''non-qualified'' basis or in connection with certain types of retirement plans that receive favorable federal income tax treatment under the Internal Revenue Code of 1986, as amended. The Contracts make available a number of sub-accounts of the Separate Account to which an owner may allocate net premium payments and associated bonus credits, called Credit Enhancement(s), which are described below.

7. The Contracts also offer fixed-interest allocation options under which Minnesota Life credits guaranteed rates of interest for various periods. These include several dollar cost averaging (DCA) fixed account options and guaranteed term account options. A market value adjustment may apply to the fixed-interest allocation options under the Contracts in certain circumstances.

8. An owner's initial purchase payment must be at least $10,000. Thereafter, an owner may choose the amount and frequency of purchase payments, except that the minimum subsequent purchase payment is $500 ($100 for automatic payment plans). An owner may make transfers of Contract Value among and between the sub-accounts and, subject to certain restrictions, among and between the sub-accounts and the fixed-interest

allocation options at any time. Contract Value is the sum of a Contract owner's values in the DCA fixed accounts, Fixed Accounts, guarantee periods of the guaranteed term account and sub-accounts of the Separate Account on any valuation date before the annuity commencement date.

9. The Contracts offer an owner a variety of annuity payment options. The owner may annuitize any time following the second contract anniversary. If a deferred sales charge would otherwise apply to Contract withdrawals at the time of annuitization, the deferred sales charge will be waived for amounts applied to provide annuity payments. In the event of an owner's (or the annuitant's, if any owner is not an individual) death prior to annuitization, the beneficiary may elect to receive the death benefit in the form of one of several annuity payment options instead of a lump sum.

10. Minnesota Life may deduct a premium tax charge from premium payments in certain states, but otherwise deducts a charge for premium taxes upon annuitization of the Contract, depending upon the jurisdiction. The Contracts provide for an annual administrative charge of $35 that Minnesota Life deducts from the Contract's accumulation value on each contract anniversary and upon a full surrender of a Contract if the greater of: (a) Contract Value or (b) purchase payments less withdrawals, is less than $75,000. A daily mortality and expense risk charge is deducted from the assets of the Separate Account at a rate described in the Contract. In addition, the mortality and expense risk charge is reduced after Contract Year 9 and later. As a result, the mortality and expense risk charge for the base Contract is 1.70% annually for Contract Years 1 through 9; to 1.10% for Contract Years 10 and after. A daily administrative charge is deducted from the assets of the Separate Account at an annual rate of 0.15%. The Contracts provide for a charge of $10 for each transfer of Contract Value in excess of twelve transfers per Contract Year (which charge Minnesota Life currently waives). The Contracts have a deferred sales charge which is applicable on surrender and withdrawal of accumulation values as described more fully below. A quarterly charge may be assessed depending on the type of optional living benefit elected, if any.

11. Minnesota Life does not deduct sales load from purchase payments before allocating them to a Contract owner's Contract Value. If a Contract owner withdraws Contract Value, Minnesota Life may deduct a contingent deferred sales charge, which is referred to as a deferred sales charge (''DSC''). The DSC is equal to a percentage of each purchase payment surrendered or withdrawn. The DSC is separately calculated and applied to each purchase payment at any time that the purchase payment (or part of the purchase payment) is surrendered or withdrawn. The amount of the DSC depends on how long a Contract owner's purchase payment has been held under the Contract. The DSC applicable to each purchase payment diminishes to zero over time as the purchase payment remains in the Contract.

12. The Contracts offer a standard DSC schedule as follows:

Contract Years Since Payment	0–1	1–2	2–3	3–4	4–5	5–6	6–7	7–8	8–9	9+
Deferred Sales Charge	6.5%	6.5%	5.9%	5.9%	5.9%	5%	4%	3%	2%	0%

The DSC does not apply to:

- The annual free withdrawal amount (as discussed below).
- Amounts withdrawn to pay the annual maintenance fee, any transfer charge or any periodic charges for optional riders.
- Any amount attributable to recaptured Credit Enhancements.
- Amounts payable as a death benefit upon the death of the owner or the annuitant, if applicable.
- Amounts applied to provide annuity payments under an annuity option.
- Amounts withdrawn because of an excess contribution to a tax-qualified contract (including, for example, IRAs and tax sheltered annuities).
- The difference between any required minimum distribution due (according to Internal Revenue Service rules) on the Contract and any annual free withdrawal amount allowed.
- A surrender or withdrawal requested any time after the first Contract Anniversary and if a Contract owner meets the requirements of a qualifying confinement in a hospital or medical care facility.
- A surrender or withdrawal requested any time after the first Contract Anniversary and in the event that a Contract owner is diagnosed with a terminal illness as described in the Contract.

13. The amount withdrawn plus any DSC is deducted from the Contract Value. The amount of the DSC is determined from the percentages shown in the table above. For purposes of determining the amount of DSC, withdrawal amounts will be allocated to Contract gain up to the free withdrawal amount, and then to purchase payments on a first-in, first-out, basis. The amount of the DSC is determined by: (a) Calculating the number of years each purchase payment being withdrawn has been in the Contract; (b) multiplying each purchase payment being withdrawn by the appropriate DSC percentage from the table; and (c) adding the DSC from all purchase payments calculated in (b). Unless otherwise instructed, the DSC will be deducted pro rata from all sub-accounts. During the first Contract Year, the annual free withdrawal amount is 10% of purchase payments, measured at the time of withdrawal, less any prior withdrawals made in that Contract Year. Thereafter, the annual free withdrawal amount is equal to 10% of the sum of purchase payments received by Minnesota Life within 9 years and not previously withdrawn as of the most recent Contract Anniversary. The free withdrawal amount does not apply when a Contract is surrendered.

14. Subject to state availability, an owner may elect to purchase optional living benefit riders. The optional Guaranteed Income Provider Benefit (the ''GIPB Rider'') is a minimum guaranteed income benefit rider. It guarantees that a minimum amount of annuity income will be available to the owner, regardless of fluctuating market conditions, if the owner annuitizes his or her Contract on or after the rider's exercise date. The minimum guaranteed amount of annuity income will depend on the amount of purchase payments made to the Contract and any Credit Enhancements applied to the Contract, if applicable, during the specified number of Contract Years after the owner purchases the GIPB Rider; how the owner allocates the Contract Value among the sub-accounts and fixed-interest allocations; and any withdrawals and transfers the owner makes while the GIPB Rider is in effect. A daily charge for the GIPB Rider is deducted from the assets of the Separate Account at an annual rate of 0.50%. The charge does not apply after annuitization.

15. The optional guaranteed minimum withdrawal benefit rider (the ''GMWB Rider'') guarantees that a

certain amount may be withdrawn annually regardless of market performance and even if the Contract Value is reduced to zero. The Contract offers the guaranteed withdrawal amount until the GMWB Base (as defined in the GMWB Rider) is completely recovered. The GMWB Rider is subject to conditions and limitations. Minnesota Life will deduct a maximum annual charge of 1.00% (currently, 0.50%) of the GMWB Base (as set forth in the GMWB Rider). One quarter of the GMWB Rider charge will be taken on the GMWB effective date and at the end of every three months thereafter. The charge does not apply after annuitization.

16. The optional Guaranteed Living Withdrawal Benefit Rider (''GLWB Rider'') also guarantees that a certain amount may be withdrawn annually regardless of market performance and even if the Contract Value is reduced to zero. However, the GLWB Rider guarantees the withdrawal amounts for the life of the Contract owner. The GLWB Rider is subject to conditions and limitations. Minnesota Life will deduct an annual charge of 0.60% of Contract Value. One quarter of the GLWB Rider charge will be taken on the GLWB Rider effective date and at the end of every three months thereafter. The charge does not apply after annuitization.

17. If an owner dies before the annuity start date, the Contract provides for a death benefit payable to a beneficiary computed as of the date Minnesota Life receives written notice and due proof of death. The death benefit payable to the beneficiary depends on the death benefit option selected by the owner. The options are the guaranteed minimum death benefit which is included as part of the base Contract; or one of two optional death benefits: the Highest Anniversary Value death benefit; or the Premier Death Benefit, as each is described below. In the future, Minnesota Life may offer other death benefit riders.

18. The guaranteed minimum death benefit is part of the base Contract and is the ''standard'' death benefit. It equals the greater of the: (1) Contract Value; or, (2) the total purchase payments and Credit Enhancements, adjusted pro rata for withdrawals and transfers, less total Credit Enhancements applied within twelve months prior to death. The charge associated with this base Contract death benefit is built into the mortality and expense risk charge for the Contract.

19. The Highest Anniversary Value (HAV) death benefit is an optional death benefit which may be elected. It equals the greater of the: (1) Contract Value; and, (2) the previous highest anniversary value adjusted for any purchase payments and Credit Enhancements, reduced pro rata for withdrawals and transfers, less Credit Enhancements applied within twelve months prior to death. The daily charge for the HAV death benefit is the annual rate of 0.15% of the variable Contract Value and is deducted from amounts held in the Separate Account. The charge does not apply after annuitization.

20. The Premier Death Benefit equals the greater of: (1) The HAV death benefit value or (2) the 5% Death Benefit Increase Value. The 5% Death Benefit Increase Value is equal to (on the date the death benefit is determined) the sum of: (a) The portion of the Contract Value in any fixed account and guaranteed term account; and (b) purchase payments and transfers into the Separate Account adjusted pro rata for withdrawals or transfers out of the Separate Account, accumulated to the earlier of the date Minnesota Life receives due proof of death or the Contract Anniversary following the Contract owner's eightieth birthday at an interest rate of 5% compounded annually. The sum of (a) and (b) is reduced by any Credit Enhancements granted within the previous 12 months. The 5% Death Benefit Increase Value shall not exceed 200% of the sum of purchase payments adjusted pro rata for any amounts previously withdrawn. The charge for the Premier Death Benefit is the annual rate of 0.35% of the variable Contract Value and is deducted from amounts held in the Separate Account. This charge does not apply after annuitization.

21. The Contract is a ''bonus'' annuity. Minnesota Life will credit the Contract value allocated to the sub-accounts and the fixed-interest accounts with a Credit Enhancement in an amount equal to a percentage of each purchase payment made during the first Contract Year. The Credit Enhancement amount is treated as earnings for federal tax purposes. Minnesota Life allocates the Credit Enhancement for the applicable purchase payment among the sub-accounts and fixed-interest accounts the owner selects in proportion to the purchase payment allocations. Minnesota Life applies the credit to an owner's Contract Value either by ''purchasing'' accumulation units of an appropriate sub-account or adding to the owner's fixed-interest allocation option values. The Credit Enhancement equals 7% of each purchase payment made in the first Contract Year. Minnesota Life reserves the right to increase or decrease the amount of the Credit Enhancement or discontinue the Credit Enhancement in the future.

22. Minnesota Life recaptures or retains the Credit Enhancements in several circumstances. First, Minnesota Life recaptures or retains 100% of the Credit Enhancements in the event that the owner exercises his or her cancellation right during the ''free look'' period. Second, Minnesota Life recaptures the Credit Enhancements applied to purchase payments made within twelve months of the date a death benefit is paid (unless the Contract is continued under the surviving spouse benefit continuation option). Third, Minnesota Life also will recapture part or all of the applicable Credit Enhancement upon surrender, withdrawal or where amounts are applied to provide annuity payments, within seven years of the Contract effective date.

23. In the event of a surrender, withdrawal or where amounts are applied to provide annuity payments, within seven years of the Contract effective date, Minnesota Life will recapture or deduct an amount equal to a percentage of the Credit Enhancement(s) not yet vested. On each Contract Anniversary, an amount equal to 14.2857% or one-seventh (1/7) of the Credit Enhancement(s) not previously recaptured will vest. All Credit Enhancements will be fully vested at the end of seven years from the Contract effective date. The value of the Credit Enhancement(s) only fully vests, or belongs irrevocably to the owner, when the recapture period for the Credit Enhancement expires. The following table summarizes the vesting schedule and recapture percentage of the Credit Enhancements:

Contract year	Percentage vested	Fraction	Credit enhancement recapture percentage
0 (issue up to 1st anniversary)	0	0	100

Contract year	Percentage vested	Fraction	Credit enhancement recapture percentage
1	14.2857	1/7	85.7143
2	28.5714	2/7	71.4286
3	42.8571	3/7	57.1429
4	57.1429	4/7	42.8571
5	71.4286	5/7	28.5714
6	85.7143	6/7	14.2857
7+	100	7/7	0

24. The percentage that will be recaptured may be calculated by subtracting any applicable free withdrawal amount from the amount requested as a withdrawal, surrender or amount to be applied as annuity payments, and dividing the result by the Contract Value immediately prior to the requested transaction. The amount of the Credit Enhancements that will be recaptured if the owner takes a withdrawal, surrender the contract or annuitize the contract in the first seven years may be calculated with the following formula:

$$\frac{\text{(amount withdrawn or annuitized)} - \text{(applicable "free amount")}}{\text{contract value at the time of the request}} \times \frac{\text{Amount of unvested}}{\text{Credit Enhancements}}$$

25. The dollar amount of the Credit Enhancement recaptured will never exceed the dollar amount of the Credit Enhancement added to the contract. In other words, Minnesota Life does not recapture the investment gain/loss—only the dollar amount of the Credit Enhancement added to the Contract. Minnesota Life will not recapture Credit Enhancements attributable to amounts withdrawn representing the annual free withdrawal amount.

26. With regard to variable Contract Value, several consequences flow from the foregoing. First, increases in the value of accumulation units representing Credit Enhancements accrue to the owner immediately, but the initial value of such units only belongs to the owner when, or to the extent that, the Credit Enhancements vest. Second, decreases in the value of accumulation units representing Credit Enhancements do not diminish the dollar amount of Contract Value subject to recapture. Therefore, additional accumulation units must become subject to recapture as their value decreases. Stated differently, the proportionate share of any owner's variable Contract Value (or the owner's interest in the Separate Account) that Minnesota Life needs to ''recapture'' to avoid anti-selection increases as variable Contract Value (or the owner's interest in the Separate Account) decreases. This has the potential to dilute somewhat the contract owner's interest in his/her contract as compared to other contract owners who do not trigger the recapture provisions. (Anti-selection in this context refers to the risk to Minnesota Life that contract owners with a declining contract value and who choose to withdraw or surrender their contract would be doing so at a point in time where accumulation units have a lower value.) Lastly, because it is not administratively feasible to track the unvested value of Credit Enhancements in the Separate Account, Minnesota Life deducts the daily mortality and expense risk charge and the daily administrative charge from the entire net asset value of the Separate Account. As a result, the daily mortality and expense risk charge, the daily administrative charge, and any optional benefit charges paid by any owner may be greater than that which he or she would pay without the Credit Enhancement. In other words, any asset based fees taken on a dollar amount that is subsequently recaptured cannot be refunded to contract owners.

Applicants' Legal Analysis

1. Applicants request that the Commission issue an order pursuant to Section 6(c) of the 1940 Act to exempt Applicants with respect to (1) the Contracts, (2) Future Accounts that support the Contracts, and (3) Future Underwriters of the Contracts from the provisions of Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder, to the extent necessary to permit the recapture of all or a portion of the Credit Enhancements (previously applied to premium payments) where the Credit Enhancements were applied and (1) the Contract owner exercises his or her ''free look'' right, (2) in the event of death within twelve months of the Credit Enhancements being applied (unless the Contract is continued under the surviving spouse benefit continuation option), or (3) partial withdrawal, annuitization, or surrender of the Contract in the first seven Contract Years (pursuant to the Credit Enhancement recapture formula described above).

2. Section 6(c) of the 1940 Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the 1940 Act and the rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. Subsection (i) of Section 27 provides that Section 27 does not apply to any registered separate account supporting variable annuity contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of subsection (i). Paragraph (2) provides that it shall be unlawful for a registered separate account or sponsoring insurance company to sell a variable annuity contract supported by the separate account unless the '' * * * contract is a redeemable security; and * * * [t]he insurance company complies with Section 26(e) * * *. ''

4. Section 2(a)(32) defines a ''redeemable security'' as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

5. Rule 22c–1 imposes requirements with respect to both the amount payable on redemption of a redeemable security and the time as of which such amount is calculated. In the pertinent part, Rule 22c–1 prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security from selling, redeeming or repurchasing any such security, except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase of such security.

6. Applicants submit that to the extent that the recapture of the Credit Enhancement arguably could be seen as a discount from the net asset value, or arguably could be viewed as resulting in the payment to an owner of less than the proportional share of the issuer's net assets, in violation of Sections 2(a)(32) or 27(i)(2)(A) of the 1940 Act, the Credit Enhancement recapture would then trigger the need for relief absent some exemption from the 1940 Act. Rule 6c–8 provides, in relevant part, that a registered separate account, and any depositor of such account, shall be exempt from Sections 2(a)(32), 27(c)(1), 27(c)(2) and 27(d) of the 1940 Act and Rule 22c–1 thereunder to the extent necessary to permit them to impose a deferred sales load on any variable annuity contract participating in such account. Applicants assert, however, that the Credit Enhancement recapture is not a sales load but a recapture of a Credit Enhancement previously applied to an owner's purchase payments. Minnesota Life provides the Credit Enhancement from its general account on a guaranteed basis. The Contracts are designed to be long-term investment vehicles. In undertaking this financial obligation, Minnesota Life contemplates that an owner will retain a Contract over an extended period, consistent with the long-term nature of the Contracts. Minnesota Life contends that it designed the Contract so that it would recover its costs (including the Credit Enhancements) over an anticipated duration while a Contract is in force. If an owner withdraws his or her money during the free look period, a death benefit is paid, or a withdrawal or surrender is made before this anticipated period, Minnesota Life asserts it must recapture the Credit Enhancement subject to recapture in order to avoid a loss.

7. Applicants submit that the proposed Credit Enhancement would not violate Sections 2(a)(32) or 27(i)(2)(A) of the 1940 Act. Minnesota Life would grant Credit Enhancements out of its general account assets and the amount of the Credit Enhancement (although not the earnings on such amounts) would remain Minnesota Life's until such amounts vest with the owner. Until the appropriate recapture period expires, Minnesota Life retains the right to and interest in each owner's Contract Value representing the dollar amount of any unvested Credit Enhancement. Therefore, Applicants submit that if Minnesota Life recaptures any Credit Enhancements or part of a Credit Enhancement in the circumstances described above, it would merely be retrieving its own assets. Applicants further submit that to the extent that Minnesota Life may grant and recapture Credit Enhancements in connection with variable Contract Value, it would not, at either time, deprive any owner of his or her then proportionate share of the Separate Account's assets.

8. Applicants further submit that the dynamics of the proposed Credit Enhancements would not violate Section 2(a)(32) or 27(i)(2)(A) of the 1940 Act because the recapture of Credit Enhancements would not, at any time, deprive an owner of his or her proportionate share of the current net assets of the Separate Account. Section 2(a)(32) defines a redeemable security as one ''under the terms of which the holder, *upon presentation to the issuer,* is entitled to receive *approximately* his proportionate share of the issuer's *current* net asset value.'' Applicants assert that taken together, these two sections of the 1940 Act do not require that the holder receive the exact proportionate share that his or her security represented at a prior time. Therefore, Applicants submit that the fact that the proposed Credit Enhancement provisions have a dynamic element that may cause the relative ownership positions of Minnesota Life and a Contract owner to shift due to Separate Account performance and the vesting schedule of such Credit Enhancements, would not cause the provisions to conflict with Sections 2(a)(32) or 27(i)(2)(A). Nonetheless, in order to avoid any uncertainty as to full compliance with the 1940 Act, Applicants seek exemptions from these two sections.

9. Minnesota Life's granting of Credit Enhancements would have the result of increasing an owner's Contract Value in a way that arguably could be viewed as the purchase of an interest in the Separate Account at a price below the current net asset value. Similarly, Minnesota Life's recapture of any Credit Enhancements arguably could be viewed as the redemption of such an interest at a price above the current net asset value. If such is the case, then the Credit Enhancements arguably could be viewed as conflicting with Rule 22c–1. Applicants contend that these are not correct interpretations or applications of these statutory and regulatory provisions. Applicants also contend that the Credit Enhancements do not violate Rule 22c–1.

10. Rule 22c–1 was intended to eliminate or reduce, as far as was reasonably practicable: (1) The dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or their redemption at a price above net asset value; or (2) other unfair results, including speculative trading practices. Applicants submit that the industry and regulatory concerns prompting the adoption of Rule 22c–1 were primarily the result of backward pricing, the practice of basing the price of a mutual fund share on the net asset value per share determined as of the close of the market on the previous day. Backward pricing permitted certain investors to take advantage of increases or decreases in net asset value that were not yet reflected in the price, thereby diluting the values of outstanding shares.

11. Applicants submit that the Credit Enhancements do not give rise to either of the two concerns that Rule 22c–1 was designed to address. First, Applicants contend that the proposed Credit Enhancements pose no such threat of dilution. An owner's interest in his or her Contract Value or in the Separate Account would always be offered at a price based on the net asset value next calculated after receipt of the order. The granting of a Credit Enhancement does not reflect a reduction of that price. Instead, Minnesota Life would purchase with its general account assets, on behalf of the owner, an interest in the Separate Account equal to the Credit Enhancement. Because the Credit Enhancement will be paid out of the general account assets, not the Separate Account assets, Applicants submit that no dilution will occur as a result of the Credit Enhancement. Recaptures of Credit Enhancements result in a redemption of Minnesota Life's interest in an owner's Contract Value or in the Separate Account at a price determined based on the Separate Account's current net asset value and not at an inflated price. Moreover, the amount recaptured will always equal the amount that Minnesota Life paid from its general account for the Credit Enhancement.

Similarly, although an owner is entitled to retain any investment gains attributable to the Credit Enhancement, the amount of such gains would always be computed at a price determined based on net asset value.

12. Second, Applicants submit that speculative trading practices calculated to take advantage of backward pricing will not occur as a result of Minnesota Life's recapture of the Credit Enhancement. Variable annuities are designed for long-term investment, and by their nature, do not lend themselves to the kind of speculative short-term trading that Rule 22c–1 was designed to prevent. More importantly, the Credit Enhancement recapture simply does not create the opportunity for speculative trading.

13. Applicants submit that Rule 22c–1 should have no application to the Credit Enhancement available, as neither of the harms that Rule 22c–1 was intended to address arise in connection with the proposed Credit Enhancement. Nonetheless, in order to avoid any uncertainty as to full compliance with the 1940 Act, Applicants request an exemption from the provisions of Rule 22c–1.

14. Applicants submit that the Commission should grant the exemptions requested in this Application even if the Credit Enhancement arguably conflicts with Sections 2(a)(32) or 27(i)(2)(A) of the 1940 Act or Rule 22c–1 thereunder. Applicants assert that the Credit Enhancement is generally beneficial to an owner. The recapture tempers this benefit somewhat, but unless the owner dies very soon after Contract issue, the owner retains the ability to avoid the Credit Enhancement recapture in the circumstances described herein. While there would be a small downside in a declining market where losses on the Credit Enhancement amount would vest with him or her immediately, it is the converse of the benefits an owner would receive on the Credit Enhancement amounts in a rising market because earnings on the Credit Enhancement amount vest with him or her immediately. As any earnings on Credit Enhancements applied would not be subject to recapture and thus would be immediately available to an owner, likewise any losses on Credit Enhancements would also not be subject to recapture and thus would be immediately available to an owner. Applicants submit that the Credit Enhancement recapture does not diminish the overall value of the Credit Enhancement.

15. Applicants assert that the Credit Enhancement recapture provision is necessary for Minnesota Life to offer the Credit Enhancement and avoid anti-selection against it. Applicants submit it would be unfair to Minnesota Life to permit an owner to keep his or her Credit Enhancement upon his or her exercise of the Contract's ''free look'' provision. Because no DSC applies to the exercise of the ''free look'' provision, the owner could obtain a quick profit in the amount of the Credit Enhancement at Minnesota Life's expense by exercising that right. Similarly, the owner could take advantage of the Credit Enhancement by taking withdrawals within the recapture period, because the cost of providing the Credit Enhancement is recouped through charges imposed over a period of years. Likewise, because no additional DSC applies upon death of an owner (or annuitant), a death shortly after the award of Credit Enhancement would afford an owner or a beneficiary a similar profit at Minnesota Life's expense.

16. Applicants submit that in the event of such profits to an owner or beneficiary, Minnesota Life could not recover the cost of granting the Credit Enhancements. This is because Minnesota Life intends to recoup the costs of providing the Credit Enhancement through the charges under the Contract, particularly the daily mortality and expense risk charge and the daily administrative charge. Applicants assert that if the profits described above are permitted, an owner could take advantage of them, reducing the base from which the daily charges are deducted and greatly increasing the amount, and cost, of Credit Enhancements that Minnesota Life must provide. Therefore, the recapture provisions are a price of offering the Credit Enhancements. Applicants submit that Minnesota Life simply cannot offer the proposed Credit Enhancements without the ability to recapture those Credit Enhancements in the limited circumstances described herein.

17. Applicants state that the Commission's authority under Section 6(c) of the 1940 Act to grant exemptions from various provisions of the 1940 Act and rules thereunder is broad enough to permit orders of exemption that cover classes of unidentified persons. Applicants request an order of the Commission that would exempt them, Minnesota Life's successors in interest, Future Accounts and Future Underwriters from the provisions of Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder with respect to the Contracts. The exemption of these classes of persons is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act because all of the potential members of the class could obtain the foregoing exemptions for themselves on the same basis as the Applicants, but only at a cost to each of them that is not justified by any public policy purpose. As discussed below, the requested exemptions would only extend to persons that in all material respects are the same as the Applicants. Applicants submit that the Commission has previously granted exemptions to classes of similarly situated persons in various contexts and in a wide variety of circumstances, including class exemptions for recapturing bonus-type credits under variable annuity contracts.

18. Applicants represent that any Future Contracts will be substantially similar in all material respects to the Current Contracts, but particularly with respect to the Credit Enhancements and recapture of Credit Enhancements and that each factual statement and representation about the Credit Enhancement feature will be equally true of any Contracts in the future. Applicants also represent that each material representation made by them about the Separate Account and SFS will be equally true of Future Accounts and Future Underwriters, to the extent that such representations relate to the issues discussed in the Application. In particular, each Future Underwriter will be registered as a broker-dealer under the Securities Exchange Act of 1934 and be an NASD member.

19. Based upon the foregoing, Applicants submit that the proposed Credit Enhancement involves none of the abuses to which provisions of the 1940 Act and rules thereunder are directed. The owner will always retain the investment experience attributable to the Credit Enhancement and will retain the principal amount in all cases except under the circumstances described herein. Further, Applicants assert that Minnesota Life should be able to recapture such Credit Enhancement to limit potential losses associated with such Credit Enhancements.

Conclusions

Applicants submit that the exemptions requested are necessary or appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act, and consistent with and supported by Commission precedent. Applicants also submit that the

provisions for recapture of any Credit Enhancement under the Contracts does not violate Section 2(a)(32) and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder.

Applicants hereby request that the Commission issue an order pursuant to Section 6(c) of the 1940 Act to exempt the Applicants with respect to (1) the Contracts, (2) Future Accounts that support the Contracts, and (3) Future Underwriters from the provisions of Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder, to the extent necessary to permit the recapture of all or a portion of the Credit Enhancement(s) (previously applied to purchase payments) where the credit was applied and (1) the Contract owner exercises his or her ''free look'' right, (2) in the event of death within twelve months of the Credit Enhancement being applied (unless the Contract is continued under the surviving spouse benefit continuation option), or (3) partial withdrawal, annuitization, or surrender of the Contract in the first seven Contract Years (pursuant to the Credit Enhancement recapture formula described above).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17573 Filed 9–5–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 10, 2007:

A Closed Meeting will be held on Monday, September 10, 2007 at 2 p.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 Atkins, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Monday, September 10, 2007 will be:

Formal orders of investigations;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Resolution of litigation claims.

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.

August 31, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17640 Filed 9–5–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Sunshine Act Meeting; Federal Register Citation of Previous Announcement: [to be published]

STATUS: Open Meeting.

PLACE: 100 F Street, NE., L–002, Auditorium, Washington, DC.

ANNOUNCEMENT OF ADDITIONAL MEETING: Open Meeting.

The Commission has scheduled an Open Meeting for Monday, September 10, 2007 at 10 a.m. in the Auditorium, Room L–002.

The SEC will hold its second annual Seniors Summit at its headquarters, 100 F Street, NE., Washington DC 20549. The event will further examine how regulators, community organizations, and others can increasingly coordinate efforts to protect older Americans from abusive sales practices and investment fraud.

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: August 30, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17672 Filed 9–5–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56336; File No. SR–Amex–2007–35]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to the Criteria for Securities That Underlie Options Traded on the Exchange

August 29, 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 April 5, 2007, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Amex. On August 20, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to permit the initial and continued listing and trading on the Exchange of options on Index Multiple Exchange Traded Fund Shares (''Multiple Fund Shares'') and Index Inverse Exchange Traded Fund Shares (''Inverse Fund Shares'') (collectively, the ''Fund Shares'').

The text of the proposed rule change is available at Amex, the Commission's Public Reference Room, and *www.amex.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 Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 superseded and replaced the original filing in its entirety.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to revise Amex Rules 915 and 916 to enable the listing and trading on the Exchange of options on Multiple Fund Shares and Inverse Fund Shares. Multiple Fund Shares seek to provide investment results, before fees and expenses, that correspond to a specified multiple of the percentage performance on a given day of a particular foreign or domestic stock index. Inverse Fund Shares seek to provide investment results, before fees and expenses, that correspond to the inverse (opposite) of the percentage performance on a given day of a particular foreign or domestic stock index by a specified multiple. Multiple and Index Fund Shares differ from traditional exchange-traded fund (''ETFs'') shares in that they do not merely correspond to the performance of a given index, but rather attempt to match a multiple or inverse of such underlying index performance. Current Multiple Fund Shares trading on the Exchange include the ProShares Ultra Funds while the Index Inverse Fund Shares include the Short Funds and UltraShort Funds.[4]

In order to achieve investment results that provide either a positive multiple or inverse of the benchmark index, Multiple Fund Shares or Inverse Fund Shares may hold a combination of financial instruments, including, among other things, stock index futures contracts; options on futures; options on securities and indices; equity caps, collars and floors; swap agreements; forward contracts; repurchase agreements; and reverse repurchase agreements (the ''Financial Instruments''). The underlying portfolios of Multiple Fund Shares generally will hold at least 85% of their assets in the component securities of the underlying relevant benchmark index. The remainder of any assets are devoted to Financial Instruments that are intended to create the additional needed exposure to such Underlying Index necessary to pursue its investment objective. Normally, 100% of the value of the underlying portfolios of Inverse Fund Shares will be devoted to Financial Instruments and money market instruments, including U.S. government securities and repurchase agreements (the ''Money Market Instruments'').

Currently, Commentary .06 to Amex Rule 915 provides securities deemed appropriate for options trading shall include shares or other securities (''Exchange-Traded Fund Shares'') that are principally traded on a national securities exchange or through the facilities of a national securities association and defined as an ''NMS stock'' under Rule 600 of Regulation NMS, and that (i) represent an interest in a registered investment company organized as an open-end management investment company, a unit investment trust or a similar entity which holds securities constituting or otherwise based on or representing an investment in an index or portfolio of securities; (ii) represent interest in a trust or other similar entity that holds a specified non-U.S. currency and/or currencies deposited with the trust or similar entity when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and/or currencies and pays the beneficial owner interest and other distributions on the deposited non-U.S. currency and/or currencies, if any, declared and paid by the trust; or (iii) represent commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency (''Commodity Pool ETFs'').

The Exchange proposes to amend Commentary .06 to Amex Rule 915 to expand the type of options to include the listing and trading of options based on Multiple Fund Shares and Inverse Fund Shares[5] that may hold or invest in any combination of securities, Financial Instruments and/or Money Market Instruments. Multiple Fund Shares and Inverse Fund Shares will continue to otherwise satisfy the listing standards in Commentary .06 to Amex Rule 915. In addition, the Exchange proposes to remove the reference to a ''national securities association'' in Commentary .06 to Amex Rule 915.

As set forth in proposed amended Commentary .06 to Amex Rule 915, Multiple Fund Shares and Inverse Fund Shares must be traded on a national securities exchange and must be an ''NMS stock'' as defined under Rule 600 of Regulation NMS. In addition, Multiple Fund Shares and Inverse Fund Shares must meet either: (i) The criteria and guidelines under Commentary .01 to Amex Rule 915; or (ii) be available for creation or redemption each business day in cash or in kind from the investment company at a price related to net asset value. In addition, the investment company shall provide that shares may be created even though some or all of the securities and/or cash (in lieu of the Financial Instruments) needed to be deposited have not been received by the investment company, provided the authorized creation participant has undertaken to deliver the shares and/or cash as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the fund which underlies the option as described in the prospectus.

The current continuing or maintenance listing standards for options on Exchange Traded Fund Shares will continue to apply.

The Exchange proposes to amend Commentary .07 to Amex Rule 916 to indicate that the index or portfolio may consist of securities, Financial Instruments and/or Money Market Instruments. The Exchange also seeks to delete references to ''national market securities,'' ''national securities association'', and ''national market association'' set forth in Commentary .07 to Amex Rule 916.

Under the applicable continued listing criteria in Commentary .07 to Amex Rule 916, options on Fund Shares may be subject to the suspension of opening transactions as follows: (1) Following the initial twelve-month period beginning upon the commencement of trading of the Fund Shares, there are fewer than 50 record and/or beneficial holders of the Fund Shares for 30 or more consecutive trading days; (2) the value of the index, non-U.S. currency, portfolio of commodities including commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities, or portfolio of securities and/or Financial Instruments on which the Fund Shares are based is no longer

[4] *See* Securities Exchange Act Release Nos. 52553 (October 3, 2005), 70 FR 59100 (October 11, 2005) (SR–Amex–2004–62) (approving the listing and trading of the Ultra Funds and Short Funds) and 54040 (June 23, 2006), 71 FR 37629 (June 30, 2006) (SR–Amex–2006–41) (approving the listing and trading of the UltraShort Funds). The Ultra Funds are expected to gain, on a percentage basis, approximately twice (200%) as much as the underlying benchmark index and should lose approximately twice (200%) as much as the underlying benchmark index when such prices decline. The Short Funds are expected to achieve investment results, before fees and expenses, that correspond to the inverse or opposite of the daily performance (–100%) of an underlying benchmark index. Lastly, the UltraShort Funds are expected to achieve investment results, before fees and expenses that correspond to twice the inverse or opposite of the daily performance (–200%) of the underlying benchmark index.

[5] *See* Amex Rule 1000A—AEMI(b)(2).

calculated or available; or (3) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing on the Exchange inadvisable. Additionally, the Fund Shares shall not be deemed to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Multiple Fund Shares or Inverse Fund Shares, if the Shares are halted from trading on their primary market or if the Shares are delisted in accordance with the terms of Amex Rule 916 or the value of the index or portfolio on which the Shares are based is no longer calculated or available.

The expansion of the types of investments that may be held by Multiple Fund Shares or Inverse Fund Shares under Commentary .06 to Amex Rule 915 will not have any effect on the rules pertaining to position and exercise limits [6] or margin.[7]

This proposal is necessary to enable the Exchange to list and trade options on the shares of the Ultra Fund, Short Fund and UltraShort Fund of the ProShares Trust.[8] We believe the ability to trade options on Multiple and Inverse Fund Shares will provide investors with greater risk management tools. The proposed amendment to the Exchange's listing criteria for options on Exchange Traded Fund Shares is necessary to ensure that the Exchange will be able to list options on the Funds of the ProShares Trust as well as other Multiple Fund Shares or Inverse Fund Shares that may be introduced in the future.

The Exchange in this proposal also seeks to add ''reverse repurchase agreements'' within the rule text of Amex Rule 1000A–AEMI(b)(2)(ii) in order to correct the definition of Financial Instruments.

The Exchange represents that its existing surveillance procedures applicable to trading in options are adequate to properly monitor the trading in Multiple Fund Shares options and Inverse Fund Shares options.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml;* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–Amex–2007–35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–Amex–2007–35. 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 at *http://www.sec.gov/rules/sro.shtml.* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Amex–2007–35 and should be submitted on or before September 27, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17544 Filed 9–5–07; 8:45 am]

BILLING CODE 8010–01–P

[6] *See* Amex Rules 904 and 905.

[7] *See* Amex Rule 462.

[8] *See supra,* note 4.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56338; File No. SR–CBOE–2007–94]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the ORS Order Cancellation Fee

August 29, 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 August 1, 2007, the Chicago Board Options Exchange, Incorporated (the ''CBOE'' or the ''Exchange'') filed with the Securities and Exchange Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the CBOE. The CBOE has filed the proposed rule change as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its Order Routing System (''ORS'') order cancellation fee. The text of the proposed rule change is available at CBOE, the Commission's Public Reference Room, and *http://www.cboe.org/legal.*

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 CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBOE currently assesses an executing clearing member $1 for each cancelled ORS order in excess of the number of orders that the executing clearing member executes in a month for a customer or for itself. The purpose of the fee is to ease order backlogs on ORS. The fee is not charged if less than 500 ORS orders are cancelled in the month. The following ORS cancellation activity is exempt from the fee: (i) Cancelled ORS orders that improve the Exchange's prevailing bid-offer (BBO) market when received; and (ii) fill and cancellation activity occurring within the first one minute of trading following the opening of each option class.

The Exchange proposes three changes to the fee. First, the Exchange proposes to calculate the fee by counting only public customer (non-broker-dealer) orders. The Exchange believes this change is appropriate since public customer orders in many products traded on the Exchange are not assessed transaction fees while all non-customer orders pay transaction fees, which helps offset cancellation costs.

Second, the Exchange proposes to aggregate and count as one executed order for purposes of the fee, all public customer options orders from the same executing clearing member for itself or for a correspondent firm that are executed in the same series on the same side of the market at the same price within a 30 second period. This proposed change is intended to discourage firms from entering and executing multiple small orders to offset the cancellation of larger orders for purposes of avoiding the fee.

Third, the Exchange proposes to increase the fee from $1.25 to $1.50 per cancelled ORS order.

The proposed ORS order cancellation fee is similar to the cancellation fee of the International Securities Exchange. The Exchange intends to implement the proposed fee change on August 1, 2007.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [5], in general, and furthers the objectives of Section 6(b)(4) [6] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities.

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 purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and Rule 19b–4(f)(2) [8] thereunder. At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such proposed 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–2007–94 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–2007–94. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 19b–4(f)(2).

the principal office of 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–2007–94 and should be submitted on or before September 27, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17572 Filed 9–5–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56332; File No. SR–NYSE–2007–76]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Relating To Requirements for Listing of Commodity-Linked Securities and Currency-Linked Securities

August 29, 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 August 22, 2007, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 703.22 of the NYSE Listed Company Manual (the ''Manual''), which permits the listing of commodity-linked securities (''Commodity-Linked Securities'') and currency-linked securities (''Currency-Linked Securities''), among other securities. The text of the proposed rule change is available at NYSE, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 703.22(B)(II)(1)(b) and Section 703.22(B)(III)(1)(b) of the Manual to permit the listing and trading of Commodity-Linked Securities and Currency-Linked Securities, respectively, where the underlying Commodity Reference Asset[3] or Currency Reference Asset,[4] as the case may be, may include components representing not more than 10% of the dollar weight of such Commodity Reference Asset or Currency Reference Asset, for which the pricing information is derived from markets which do not meet the general requirements of the respective rule, as described below. In addition, the Exchange proposes that no single component of a Commodity Reference Asset or Currency Reference Asset, as the case may be, subject to the foregoing proposed exception may exceed 7% of the dollar weight of such Commodity Reference Asset or Currency Reference Asset.

Under Section 703.22(B)(II)(1) of the Manual, an issuance of Commodity-Linked Securities currently cannot be listed unless either:

- The Commodity Reference Asset to which the security is linked shall have been reviewed and approved for the trading of Commodity Trust Shares or options or other derivatives by the Commission under Section 19(b)(2)[5] of the Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements (''CSSAs''), continue to be satisfied; or
- The pricing information for each component of a Commodity Reference Asset is derived from a market which is an Intermarket Surveillance Group (''ISG'') member or affiliate or with which the Exchange has a CSSA. Notwithstanding the previous sentence, pricing information for gold and silver may be derived from the London Bullion Market Association.

Similarly, under Section 703.22(B)(III)(1) of the Manual, an issuance of Currency-Linked Securities currently cannot be listed unless either:

- The Currency Reference Asset to which the security is linked shall have been reviewed and approved for the trading of Currency Trust Shares or options or other derivatives by the Commission under Section 19(b)(2) of the Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to CSSAs, continue to be satisfied; or
- The pricing information for each component of a Currency Reference Asset must be (1) the generally accepted spot price for the currency exchange rate in question or (2) derived from a market which is (a) an ISG member or affiliate or with which the Exchange has a CSSA and (b) the pricing source for components of a Currency Reference Asset that has previously been approved by the Commission.

The Exchange proposes to amend the requirements as to the source of pricing information for components of Commodity-Linked Securities and Currency-Linked Securities so as to permit the listing of such securities where a maximum of 10% of the dollar weight of the Commodity Reference Asset or Currency Reference Asset, as the case may be, is made up of components that do not meet the respective general pricing information requirements. In addition, the Exchange proposes that no single component subject to the proposed exception may exceed 7% of the dollar weight of the Commodity Reference Asset or Currency Reference Asset, as the case may be.

The Exchange states that many commodity and currency markets are not members or affiliates of ISG, and the Exchange frequently experiences difficulty entering into CSSAs with such markets. The Exchange believes that its surveillance procedures are not materially hampered as long as it has access to trading information of underlying components that constitute

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Commodity Reference Asset is defined as one or more physical commodities or commodity futures, options or other commodity derivatives or Commodity Trust Shares (as defined in NYSE Rule 1300B) or a basket or index of any of the foregoing. *See* Section 703.22 of the Manual.

[4] Currency Reference Asset is defined as one or more currencies, options or currency futures or other currency derivatives or Currency Trust Shares (as defined in NYSE Rule 1300A) or a basket or index of any of the foregoing. *See id.*

[5] 15 U.S.C. 78s(b)(2).

at least 90% of the dollar weight of the Commodity Reference Asset or Currency Reference Asset, as the case may be, and so long as the remaining 10% of the dollar weight of the Commodity Reference Asset or Currency Reference Asset, as the case may be, is comprised of more than one component. In addition, with respect to Currency-Linked Securities, the Exchange believes that the fact that the pricing information of a Currency Reference Asset is not based on the generally accepted spot price for the relevant currency or the Commission has not approved a particular market as a pricing source for components of a Currency Reference Asset does not constitute a material risk to investors where the pricing information for at least 90% of the dollar weight of the Currency Reference Asset is either based on the generally accepted spot price or derived from Commission-approved markets.[6]

The Exchange believes that the proposed amendment would provide the Exchange with greater flexibility to list securities under Section 703.22 of the Manual that are linked to a broader range of underlying assets, thereby providing issuers with a faster and less cumbersome means of listing new Commodity-Linked Securities and Currency-Linked Securities and benefiting the investing public. The Exchange notes that the Commission has previously approved similar approaches to the instant proposal, including another provision in Section 703.22 of the Manual permitting the listing of Equity Index-Linked Securities,[7] where the underlying equity index may include foreign country securities or foreign country securities underlying American Depositary Receipts having their primary trading market outside the United States on foreign trading markets that are not members or affiliates of ISG or parties to CSSAs with the Exchange, as long as such securities do not, in the aggregate, represent more than 20% of the dollar weight of such underlying index.[8]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The Exchange has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof. The Commission is considering granting accelerated approval of the proposed rule change at the end of a 15-day comment period.

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–NYSE–2007–76 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2007–76. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2007–76 and should be submitted on or before September 21, 2007.

[6] E-mail from John Carey, Assistant General Counsel, NYSE Euronext, to Edward Cho, Special Counsel, Division of Market Regulation, Commission, dated August 27, 2007 (confirming the basis of the proposal with respect to Currency-Linked Securities).

[7] Equity Index-Linked Securities are defined as securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes of equity securities. *See* Section 703.22 of the Manual.

[8] *See* Section 703.22(B)(I)(2)(vii) of the Manual. *See also* Securities Exchange Act Release Nos. 55687 (May 1, 2007), 72 FR 25824 (May 7, 2007) (SR–NYSE–2007–27) (approving the generic listing and trading standards for Index-Linked Securities, including Equity Index-Linked Securities); and 54013 (June 16, 2006), 71 FR 36372 (June 26, 2006) (SR–NYSE–2006–17) (approving the listing and trading of shares of the iShares GSCI Commodity Indexed Trust and providing that if a new component is added to the underlying index that constitutes more than 10% of the overall weight of the index and with whose principal trading market the Exchange does not have a comprehensive surveillance sharing agreement, the Exchange would seek to delist such shares).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17543 Filed 9–5–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56337; File No. SR–NYSE–2007–78]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Institute a Revised System of Payments to Specialist Firms

August 29, 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 August 28, 2007, the New York Stock Exchange LLC (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to change its system of payments to specialist firms by aligning specialist firms' compensation with their performance. The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.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. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 1, 2006, the Exchange instituted a six-month revenue sharing program for specialist firms [3] in connection with the adoption of Exchange Rule 104B, which prohibits specialist firms from charging commissions.[4] The program was subsequently extended for an additional three-month period ending August 31, 2007.[5] The Exchange now proposes to replace the revenue sharing program with a system that provides variable payments to specialist firms for liquidity provision (''Liquidity Provision Payment'' or ''LPP'').

LPPs will be based on two revenue sources in NYSE-listed securities (excluding exchange traded funds): (a) The Exchange's share of market data revenue derived from its quoting share; and (b) the Exchange's transaction fee revenue.

a. Share of Market Data Revenue Derived From Its Quoting Share

Pursuant to Regulation NMS,[6] the Commission revised the formula for the distribution by the Consolidated Tape Association (''CTA'') of market data quote revenue in NYSE-listed securities (Network A) among the various markets (the ''Revenue Allocation Formula''). The Revenue Allocation Formula established a ''Quoting Share'' to reward markets that quote at the National Best Bid and Offer (''NBBO'').[7] The Exchange proposes to base a portion of its total LPP to specialist firms on the actual revenue associated with its market data Quoting Share. The Exchange will use the actual CTA-derived results from the Revenue Allocation Formula's Security Income Allocation and Quoting Share components and determine its revenue associated from the Quoting Share on a symbol-by-symbol basis, which is then aggregated by specialist firms. The Exchange will then use the results to provide each specialist firm with their quoting component of the LPP payment. In effect, the Exchange will pass through to the specialist firm for each security all of the Quoting Share revenue associated with that security. The Exchange believes that this will provide an additional incentive to the specialist firms to post quotes more frequently at the NBBO and also to increase the size of the quote at the NBBO, as they will benefit directly from the related increase in the Exchange's Quoting Share revenue. The LPPs are consistent with the goal of the Revenue Allocation Formula to reward markets for quoting at the NBBO and to provide incentives to specialist firms for displaying significant liquidity at the best price.

b. Transaction Fee Revenue

The Exchange further proposes to create a payment pool (the ''LPP Pool'') consisting of the Exchange's NYSE-listed stock transaction revenue on matched volume (excluding crossing services) in both electronic and manually executed transactions to provide LPPs to the specialist firms. The LPP Pool size has been set at 25% of the above-noted Exchange transaction revenue and this percentage may change if the Exchange adjusts its pricing and/or based on other conditions such as specialist performance, including liquidity-enhancing participation levels.[8] The size of the LPP Pool will vary month-to-month as Exchange volume changes. Each individual specialist firm will be allocated a

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 54856 (December 1, 2006); 71 FR 71215 (December 8, 2006) (SR–NYSE–2006–106).

[4] *See* Securities Exchange Act Release No. 54850 (November 30, 2006); 71 FR 71217 (December 8, 2006) (SR–NYSE–2006–105).

[5] *See* Securities Exchange Act Release No. 55904 (June 13, 2007), 72 FR 34054 (June 20, 2007) (SR–NYSE–2007–50).

[6] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (''Regulation NMS Adopting Release'').

[7] *See* Regulation NMS Adopting Release at page 37568. Under Regulation NMS, a market's Quoting Share in a particular security is equal to: (1) 50% of the Security Income Allocation for the security, multiplied by (2) the applicable market's Quote Rating in the security. The Security Income Allocation is the method by which the total distributable revenues are allocated among the eligible securities. Revenues are allocated based on the square root of the dollar volume of trading in each security, capped at $4 per qualified transaction report to limit disproportionate allocations for inactively traded securities. A transaction report with a dollar volume of $5,000 or more constitutes one qualified report; transaction reports with dollar volumes of less than $5,000 are calculated as proportional fractions of qualified transaction reports. The Quote Rating represents a market's percentage of all best bids and best offers equaling the NBBO price during the year (''Quote Credits''). A market earns one Quote Credit for each second of time and dollar value of size that the market's automated best bid or best offer equals the NBBO price during regular trading hours without locking or crossing a previously displayed automated quotation. To qualify for credits, the quoted price must be displayed for at least one full second, and the relevant size is the minimum size that was displayed during the second. Transactions executed manually are excluded from the Revenue Allocation Formula and, thus, the market's manual quotes will not be entitled to earn any Quote Credits.

[8] The Exchange states that it would file a rule filing with the Commission pursuant to the Act and the rules thereunder in relation to any such changes prior to their implementation.

portion of these revenues based exclusively on its trading performance in any month. Specialist firms' trading performance will be measured by the liquidity enhancing behavior that each specialist firm provides to the Exchange. In order to measure the liquidity enhancing behavior provided by the specialist firms, the Exchange will calculate each specialist firm's executed volume in four categories: (1) Price improvement; (2) size improvement; (3) providing liquidity from posting bids or offers on the book; and (4) matching better bids or offers published by other market centers to reduce client routing costs. Specialist trading activity that does not provide liquidity, for example Hit Bid/Take Offer, will not be valued in the allocation process. A specialist firm's allocation will increase if its performance as a liquidity provider improves relative to the other specialist firms. The allocation formula will weight specialist liquidity in a given security by a 0.75 exponential calculation and will then re-weight the resultant number for each security by multiplying it by the percentage representing the Exchange's regular-hours market share in that security. As with the Commission's use of a square root calculation (0.50 exponential) in connection with the Revenue Allocation Formula, the 0.75 exponential calculation will provide additional weighting to less liquid stocks, but to a lesser degree than the square root weighting.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of section 6 of the Act [9] in general and furthers the objectives of section 6(b)(4) of the Act [10] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

II. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change is effective upon filing pursuant to section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(2) [12] thereunder because it establishes or changes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–NYSE–2007–78 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F. Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2007–78. 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 Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F. Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2007–78 and should be submitted on or before September 27, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17545 Filed 9–5–07; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[PUBLIC NOTICE 5927]

Culturally Significant Objects Imported for Exhibition Determinations: ''Impressionists by the Sea''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Impressionists by the Sea'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Phillips Collection, Washington, DC, from on or about October 20, 2007, until on or about January 13, 2008, and at the Wadsworth Atheneum Museum of Art, Hartford, CT, from on or about February 9, 2008, until on or about May 11, 2008, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Richard Lahne, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8058). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: August 28, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–17612 Filed 9–5–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[PUBLIC NOTICE 5926]

Culturally Significant Objects Imported for Exhibition Determinations: ''Lessons From Bernard Rudofsky''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Lessons from Bernard Rudofsky'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Getty Research Institute, Los Angeles, CA, from on or about March 11, 2008, until on or about June 8, 2008, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Richard Lahne, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8058). The address is U.S. Department of State, SA–44, 301 4th Street, SW. Room 700, Washington, DC 20547–0001.

Dated: August 28, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–17610 Filed 9–5–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5904]

U.S. National Commission for UNESCO Notice of Teleconference Meeting

The U.S. National Commission for UNESCO will hold a conference call on Wednesday, September 12, 2007, beginning at 11 a.m. Eastern Time. The introductory part of the open portion of the call should last approximately five minutes and will be an opportunity to provide an update on recent and upcoming Commission and UNESCO activities.

The Commission will accept brief oral comments from members of the public during the open portion of this conference call. The public comment period will be limited to approximately ten minutes in total, with about three minutes allowed per speaker. Members of the public who wish to present oral comments or listen to the conference call must make arrangements with the Executive Secretariat of the National Commission by September 7, 2007.

The second portion of the teleconference meeting will be closed to the public to allow the Commission to discuss applications for the UNESCO L'OREAL Co-Sponsored Fellowships for Young Women in the Life Sciences. This portion of the call will be closed to the public pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b[c][6] because it is likely to involve discussion of information of a personal nature regarding the relative merits of individual applicants where disclosure would constitute a clearly unwarranted invasion of personal privacy.

For more information or to arrange to participate in the open portion of the teleconference meeting, contact Susanna Connaughton, Executive Director of the U.S. National Commission for UNESCO, Washington, DC 20037. Telephone: (202) 663–0026; Fax: (202) 663–0035; E-mail: *DCUNESCO@state.gov*.

Dated: August 29, 2007.

Susanna Connaughton,

Executive Director, U.S. National Commission for UNESCO Department of State.

[FR Doc. E7–17609 Filed 9–5–07; 8:45 am]

BILLING CODE 4710–19–P

Department of Transportation

Office of the Secretary

Aviation Proceedings; Agreements Filed the Week Ending June 29, 2007

Aviation Proceedings; Agreements filed the week ending June 29, 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 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2007–28614.
Date Filed: June 26, 2007.
Parties: Members of the International Air Transport Association.
Subject:
Mail Vote 544—Resolution 010u.
TC3 Japan, Korea-South East Asia.
Special Passenger Amending Resolution between Japan and China excluding Hong Kong SAR and Macao SAR.
Intended effective date: 28 July 2007.

Docket Number: OST–2007–28615.
Date Filed: June 26, 2007.
Parties: Members of the International Air Transport Association.
Subject:
Mail Vote 545—Resolution 010v.
TC3 Japan, Korea-South East Asia.
Special Passenger Amending Resolution from Korea (Rep. of) to Chinese Taipei.
Intended effective date: 6 July 2007.

Docket Number: OST–2007–28616.
Date Filed: June 26, 2007.
Parties: Members of the International Air Transport Association.
Subject:
Mail Vote 546—Resolution 010w.
TC3 Japan, Korea-South East Asia.
Special Passenger Amending Resolution from Korea (Rep. of) to Guam, Northern Mariana Islands.
Intended effective date: 6 July 2007.

Docket Number: OST–2007–28651.
Date Filed: June 29, 2007.
Parties: Members of the International Air Transport Association.
Subject:
TC2 Within Europe except between points in the ECAA.
Expedited Resolutions.
Intended effective date: 1 November 2007.

Docket Number: OST–2007–28652.
Date Filed: June 29, 2007.
Parties: Members of the International Air Transport Association.
Subject:
TC2 Within Europe.
Expedited Resolution 002.

Intended effective date: 31 October 2007.

Docket Number: OST–2007–28650.

Date Filed: June 29, 2007.

Parties: Members of the International Air Transport Association.

Subject:

047a Provisions for Inclusive Tours except between points in the ECAA, between Canada, USA and Europe, between Europe and South West Pacific.

090 Individual Fares for Ship Crews except between points in the ECAA, between Canada, USA and Europe, between Europe and South West Pacific.

092 Student Fares except between points in the ECAA, between Canada, USA and Europe, between Europe and South West Pacific.

200h Free and Reduced Fare Transportation for Inaugural Flights except between points in the ECAA, between Canada, USA and Europe, between Europe and South West Pacific 300 Baggage Allowance Weight System.

Intended effective date: 1 July 2007.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E7–17597 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

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 June 29, 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–2007–28603.

Date Filed: June 25, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 16, 2007.

Description: Application of ''Silk Way'' Airlines Limited Liability Company (''Silk Way''), requesting a foreign air carrier permit to engage in charter cargo air transportation operations between the Republic of Azerbaijan and the United States.

Renee V. Wright

Program Manager, Docket Operations Federal Register Liaison.

[FR Doc. E7–17596 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

ITS Joint Program Office; Intelligent Transportation Systems Program Advisory Committee; Notice of Meeting

AGENCY: Research and Innovative Technology Administration, U.S. Department of Transportation.

ACTION: Notice.

This notice announces, pursuant to Section 10(A)(2) of the Federal Advisory Committee Act (FACA) (Public Law 72–363; 5 U.S.C. app. 2), a meeting of the Intelligent Transportation Systems (ITS) Program Advisory Committee (ITSPAC). The meeting will be held on September 25, 2007, from 1 p.m. to 4 p.m. The meeting will take place at the U.S. Department of Transportation (U.S. DOT), 1200 New Jersey Avenue, SE., Washington DC, in Conference Room #7 on the lobby level of the West Building.

The ITSPAC, established under Section 5305 of Public Law 109–59, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, August 10, 2005, and chartered on February 24, 2006, was created to advise the Secretary of Transportation on all matters relating to the study, development and implementation of intelligent transportation systems. Through its sponsor, the ITS Joint Program Office, the ITSPAC will make recommendations to the Secretary regarding the ITS program needs, objectives, plans, approaches, contents, and progress.

The following is a summary of the meeting's agenda: (1) Introductions and Opening Remarks; (2) Ethics Briefing; (3) Federal Advisory Committee Act (FACA), October 6, 1972; (4) ITS PAC Charter; (5) U.S. DOT, Research and Innovative Technology Administration and ITS Joint Program Office Organization and Functions; (6) ITS Management Council and ITS Strategic Planning Group Organization and Functions; (7) ITS Program Major Initiatives and Funding; (8) General Discussion; (9) Next Steps; (10) Public Comments; and (11) Closing Remarks.

Since access to the U.S. DOT building is controlled, all persons who plan to attend the meeting must notify Ms. Marcia Pincus, the Committee Management Officer, at (202) 366–9230 prior to September 24, 2007. Individuals attending the meeting must report to the 1200 New Jersey Avenue entrance of the U.S. DOT Building for admission. Attendance is open to the public, but limited space is available. With the approval of Ms. Shelley Row, the Committee Designated Federal Official, members of the public may present oral statements at the meeting. Non-committee members wishing to present oral statements or obtain information should contact Ms. Pincus.

Questions about the agenda or written comments may be submitted by U.S. Mail to: U.S. Department of Transportation, Research and Innovative Technology Administration, ITS Joint Program Office, Attention: Marcia Pincus, Room E33–401, 1200 New Jersey Avenue, SE., Washington DC 20590 or faxed to (202) 493–2027. The ITS Joint Program Office requests that written comments be submitted prior to the meeting.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Pincus at least seven calendar days prior to the meeting.

Notice of this meeting is provided in accordance with the FACA and the General Service Administration regulations (41 CFR Part 102–3) covering management of Federal advisory committees.

Issued in Washington, DC, on the 30th day of August, 2007.

Shelley Row,

Director, ITS Joint Program Office.

[FR Doc. E7–17591 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at Oceano Airport, Oceano, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the

release of 2.43 acres of land at the Oceano Airport, Oceano, California, from all the conditions in the grant agreements under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21), now 49 U.S.C. 47107(h)(2). The land will be sold to the San Luis Obispo County Sanitation District and used for commercial purposes by the District for purposes compatible with the airport.

DATES: Comments must be received on or before October 9, 2007.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, San Francisco Airports District Office, Federal Register Comment, 831 Mitten Road, Room 210, Burlingame, CA 94010. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Klassje Narine, Airport Manager, County of San Luis Obispo, 1087 Santa Rosa Street, San Luis Obispo, CA 93401, (805) 781–5205.

FOR FURTHER INFORMATION CONTACT: Mr. Racior Cavole, Airports Compliance Specialist, San Francisco Airports District Office, Western-Pacific Region, Federal Aviation Administration, 831 Mitten Road, Burlingame, California 94010. Telephone (650) 876–2778, extension 627.

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition in grant agreements imposed on a federally obligated airport.

The FAA invites public comment on the request to release 2.43 acres of airport property from all federal obligations. The FAA determined that the County of San Luis Obispo request to release property meets the procedural requirements for a release, pending approval of an environmental analysis. The FAA may approve the request in whole or in part and is seeking public comments on the impacts to civil aviation concerning this release.

The following is a brief overview of the request:

The County of San Luis Obispo requested a release from surplus property agreement obligations for approximately 2.43 acres of airport land at the Oceano Airport for land obligated by the conditions in grant agreements with the United States that required the land be used for airport purposes. The release is to facilitate a transfer of fee ownership of one parcel and a grant of an easement over another parcel that are part of Oceano Airport. This request is the result of Eminent Domain proceedings brought by the South San Luis Obispo County Sanitation District through the Superior Court of the State of California to acquire the land by condemnation. The Stipulation for Judgment requires that the County of San Luis Obispo apply to the FAA for a proper release of the subject parcels. As compensation, the District will pay the agreed upon settlement of $282,875 representing the fair market value of the property.

The property release consists of two parcels. Parcel ''A,'' containing 1.76 acres, will be conveyed in fee simple. Parcel ''B,'' containing 0.67 acres, will be granted as a non-exclusive easement of airport property over which the District will have access to Parcel ''A.'' The property is needed by the South San Luis Obispo County Sanitation District for the operation of its plant and bio-solids drying ponds and to ensure access to its existing property adjacent to the airport. It has been determined that the property is not needed for airport purposes. Use of the sale proceeds of $282,875 will be invested in airport capital improvements, thereby serving the interest of the airport and civil aviation.

Issued in Burlingame, California on August 16, 2007.

Edward N. Agnew,

Acting Manager, San Francisco District Office, Western-Pacific Region.

[FR Doc. 07–4325 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA Approval of Noise Compatibility Program; Rickenbacker International Airport, Columbus, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by Columbus Regional Airport authority under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On January 25, 2007, the FAA determined that the noise exposure maps submitted by Columbus Regional Airport Authority under Part 150 were in compliance with applicable requirements. On July 9, 2007, the FAA approved the Rickenbacker International Airport noise compatibility program. All of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Rickenbacker International Airport noise compatibility program is July 9, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine S. Jones, Community Planner, Detroit Airports District Office, Metro Airport Center, 11677 South Wayne Road, Suite 107, Romulus, Michigan, Phone (734) 229–2900. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Rickenbacker International Airport, effective July 9, 2007.

Under section 47504 of the Act, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing

the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal acton or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Detroit Airports District Office in Romulus, Michigan.

Columbus Regional Airport Authority submitted to the FAA on December 21, 2006 the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from 2005 through 2006. The Rickenbacker International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on January 25, 2007. Notice of this determination was published in the **Federal Register** on February 6, 2007 (FR Doc. 07–507 Filed 2–5–07; 8:45 am).

The Rickenbacker International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions starting in 2007. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 47504 of the Act. The FAA began its review of the program on January 25, 2007 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained thirteen (13) proposed actions for noise mitigation on and/or off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the FAA effective July 9, 2007.

Outright approval was granted for all of the specific program elements. These elements were: Straight out departures of itinerant aircraft from Runway 23L/R until reaching 3,000 feet mean sea level before turning on course; Formalize civil noise abatement procedures which include: right turns to a 070-degree heading after departing to the northeast; and observing a preferential reverse flow runway use for civil jet aircraft; Formalize military noise abatement procedures, which include: right turns to a 070-degree heading after departing to the northeast; preferential southwest flow for touch-and-go operations; and observing preferential reverse flow use; Develop an Airport Land Use Management District (ALUMD) based on the most recent Future 60 Day-Night Average Sound Level (DNL) Noise Exposure Map/Noise Compatibility Program (NEM/NCP) noise contour, natural geographic and jurisdictional boundaries; Implement land use controls to discourage residential development and encourage airport compatible development within the ALUMD; Offer acquisition to eligible undeveloped properties within the 65-DNL noise contour of the Future (2011) NEM/NCP; For those undeveloped properties that are offered but unwilling to be acquired through LU–20, offer avigation easements to restrict the development of incompatible land uses within the 65-DNL noise contour of the Future (2011) NEM/NCP: Seek cooperation from the Board of Realtors to participate in a voluntary fair disclosure program for the property located within the ALUMD; Establish a Noise Abatement Committee; Establish/continue a noise complaint response program; Periodic review and update of the NEM and NCP; Develop a public information program to communicate information about the NCP; and Provide for updates/enhancement of the CRAA Airport Noise & Flight Track Monitoring System.

These determinations are set forth in detail in a Record of Approval signed by the Great Lakes Region Airports Division Manager on July 9, 2007. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above at the administrative offices of the Rickenbacker International Airport, 7161 Second Street, Columbus, Ohio 43217 and Columbus Regional Airport Authority, Port Columbus International Airport, 4600 International Gateway, Columbus, Ohio. The Record of Approval also will be available on-line at *http://www.faa.govairports_airtraffic/airports/environmental/airport_noise.*

Issued in Romulus, Michigan, July 20, 2007.

Irene R. Porter,

Acting Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 07–4322 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Annual Materials Report on New Bridge Construction and Bridge Rehabilitation

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: Section 1114 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59; 119 Stat. 1144) continued the highway bridge program to enable States to improve the condition of their highway bridges over waterways, other topographical barriers, other highways, and railroads. Section 1114(f) amends 23 U.S.C. 144 by adding subsection (r), requiring the Secretary of Transportation (Secretary) to publish in the **Federal Register** a report describing construction materials used in new Federal-aid bridge construction and bridge rehabilitation projects.

DATES: The report will be posted on the FHWA Web site no later than August 10, 2007.

ADDRESSES: The report will be posted on the FHWA Web site at: *http://www.fhwa.dot.gov/bridge/britab.htm.*

FOR FURTHER INFORMATION CONTACT: Ms. Ann Shemaka, Office of Bridge Technology, HIBT–30, (202) 366–1575, or Mr. Thomas Everett, Office of Bridge Technology, HIBT–30, (202) 366–4675,

Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: In conformance with 23 U.S.C. 144(r), the FHWA has produced a report that summarizes the types of construction materials used in new bridge construction and bridge rehabilitation projects. Data on Federal-aid and non-Federal-aid highway bridges are included in the report for completeness. The December 2006 National Bridge Inventory (NBI) dataset was used to identify the material types for bridges that were new or replaced within the defined time period. The FHWA's Financial Management Information System (FMIS) and the 2006 NBI were used to identify the material types for bridges that were rehabilitated within the defined time period. Currently preventative maintenance projects are included in the rehabilitation totals.

The report, which is available at *http://www.fhwa.dot.gov/bridge/britab.htm,* consists of the following tables:

- Construction Materials for New and Replaced Bridges, a summary report which includes Federal-aid highways and non-Federal-aid highways built in 2004 and 2005.
- Construction Materials for Rehabilitated Bridges, a summary report which includes Federal-aid and non-Federal-aid highways rehabilitated in 2004 and 2005.
- Construction Materials for Combined New, Replaced and Rehabilitated Bridges, a summary report which combines the first two tables cited above.
- Federal-aid Highways: Construction Materials for New and Replaced Bridges 2004, a detailed State-by-State report with counts and areas for Federal-aid bridges built or replaced in 2004.
- Non-Federal-aid Highways: Construction Materials for New and Replaced Bridges 2004, a detailed State-by-State report with counts and areas for non-Federal-aid bridges built or replaced in 2004.
- Federal-aid Highways: Construction Materials for Rehabilitated Bridges 2004, a detailed State-by-State report with counts and areas for rehabilitated Federal-aid bridges in 2004.
- Non-Federal-aid Highways: Construction Materials for Rehabilitated Bridges 2004, a detailed State-by-State report with counts and areas for rehabilitated non-Federal-aid bridges in 2004.
- Federal-aid Highways: Construction Materials for New and Replaced Bridges 2005, a detailed State-by-State report with counts and areas for Federal-aid bridges built or replaced in 2005.
- Non-Federal-Aid Highways: Construction Materials for New and Replaced Bridges 2005, a detailed State-by-State report with counts and areas for non-Federal-aid bridges built or replaced in 2005.
- Federal-aid Highways: Construction Materials for Rehabilitated Bridges 2005, a detailed State-by-State report with counts and areas for rehabilitated Federal-aid bridges 2005.
- Non-Federal-aid Highways: Construction Materials for Rehabilitated Bridges 2005, a detailed State-by-State report with counts and areas for rehabilitated non-Federal-aid bridges types in 2005.
- Federal-aid Highways: Construction Materials for New, Replaced and Rehabilitated Bridges 2004, which combines the 2004 reports on new, replaced and rehabilitated Federal-aid bridges.
- Non-Federal-aid Highways: Construction Materials for New, Replaced and Rehabilitated Bridges 2004, which combines the 2004 reports on new, replaced and rehabilitated non-Federal-aid bridges.
- Federal-aid Highways: Construction Materials for New, Replaced and Rehabilitated Bridges 2005, which combines the 2005 reports on new, replaced and rehabilitated Federal-aid bridges.
- Non-Federal-aid Highways: Construction Materials for New Replaced and Rehabilitated Bridges 2005, which combines the 2005 reports on new, replaced and rehabilitated non-Federal-aid bridges.

The tables provide data for 2 years: 2004 and 2005. The 2004 data is considered complete for new and rehabilitated bridges, with a minimal likelihood of upward changes in the totals. The 2005 data is considered partially complete for new bridges and complete for rehabilitated bridges, because many new bridges built in 2005 will not appear in the NBI until they are placed into service the following year. Therefore, next year's report will include 2005's data on new bridge construction, because the data will be complete.

Each table displays simple counts of bridges and total bridge deck area. Total bridge deck area is measured in square meters, by multiplying the bridge length by the deck width out-to-out. The data is categorized by the following material types, which are identified in the NBI: Steel, concrete, pre-stressed concrete and other. The category ''Other'' includes wood, timber, masonry, aluminum, wrought iron, cast iron and other. Material type is the predominate type for the main span(s).

(Authority: 23 U.S.C. 144(r); Sec. 1114(f), Pub. L. 109–59, 119 Stat. 1144.)

Issued on: August 23, 2007.

J. Richard Capka,

Federal Highway Administrator.

[FR Doc. E7–17629 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–29048]

Random Alcohol and Controlled Substance Testing: Bordentown Driver Training School, L.L.C., Doing Business as Smith & Solomon Driver Training; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The FMCSA announces that it has received an application from Bordentown Driver Training, L.L.C., doing business as Smith & Solomon Driver Training (Smith & Solomon), seeking an exemption from the random controlled substances and alcohol testing regulations for student drivers enrolled in its commercial motor vehicle driver training program. Under the exemption, Smith & Solomon's student drivers would not be required to undergo random controlled substances and alcohol testing while enrolled in its 4-week driver-training program. The FMCSA requests public comment on Smith & Solomon's application for exemption.

DATES: Comments must be received on or before October 9, 2007.

ADDRESSES: You may submit comments identified by DOT DMS Docket No. FMCSA–2007–29048 using any of the following methods:

- *Web Site:* Go to *http://dmses.dot.gov/submit.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, Room W12–140, 1200 New Jersey Ave., SE., Washington, DC 20590.
- *Hand Delivery:* Room W12–140, Ground Floor of West Building, U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, between 9 a.m. and 5 p.m.,

Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or Room W12–140, Ground Floor of West Building, U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations: Telephone: 202–366–4235. E-mail: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (Pub. L. 105–178, 112 Stat. 107, June 9, 1998) amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the motor carrier safety regulations. On August 20, 2004, FMCSA published a final rule (69 FR 51589) on section 4007. Under the regulations, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The FMCSA must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted, and it must provide an opportunity for public comment on the request.

The FMCSA reviews the safety analyses and the public comments and determines whether granting the exemption would achieve a level of safety equivalent to or greater than the level that would be achieved absent the exemption (49 CFR 381.305). The FMCSA's decision must be published in the **Federal Register** (49 CFR 381.315(b)). If FMCSA denies the request, it must state the reason for doing so. If FMCSA grants the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which exemption is being granted. The notice must also specify the effective period of the exemption (up to 2 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

Smith & Solomon is requesting a 2-year exemption from 49 CFR 382.305, ''Random testing,'' which provides in part that:

> (a) Every employer shall comply with the requirements of this section. Every driver shall submit to random alcohol and controlled substance testing as required in this section * * *

Smith & Solomon is a corporate entity providing commercial driver training in classrooms and ''behind the wheel'' to students who enroll in its 4-week program. A copy of the course curriculum and requirements for the Smith & Solomon driver training program is included in the docket for this notice. Smith & Solomon employs administrative and office staff and certified and licensed driver instructor personnel to conduct the functions of its commercial driver-training school. Driver-instructors and any other person assigned to operate a commercial motor vehicle (CMV) are subject to, and comply with, all alcohol and controlled substance testing required by the Federal Motor Carrier Safety Regulations. Students are subject to pre-enrollment, reasonable suspicion, and post-accident alcohol and controlled substance testing. According to Smith & Solomon's application, student drivers undergo controlled substance testing before enrollment, and no student is permitted in a CMV until Smith & Solomon's Director of Safety receives a negative alcohol and controlled substance test. Also, student drivers are not allowed to operate CMVs if Smith & Solomon's instructors have reasonable suspicion of alcohol or controlled substance use.

Smith & Solomon seeks an exemption from the requirements of the random controlled substances and alcohol testing program (49 CFR 382.305) for its student drivers because all student drivers undergo controlled substance testing before enrollment. Additionally, Smith & Solomon advises that student enrollments only last for a period of 4 to 6 weeks, and the student drivers are subject to reasonable-suspicion and post-accident alcohol and controlled substance testing. Smith & Solomon adds that during the length of their enrollment, students only spend an average of 30 hours behind the wheel of a CMV starting in the third week of the enrollment period, always with a Smith & Solomon certified and licensed employee driver-instructor, and the remainder of time is spent by the student in the classroom and in the practice yard.

Smith & Solomon advises that its student driver enrollment varies every 4 weeks, and students do not always stay enrolled throughout the 4-week course. As an example, Smith & Solomon states that during the period January 2007 through May 2007, 112 students were selected for random alcohol and controlled substance testing, but only 90 students were tested because 22 were no longer enrolled in the student driver program. During the course of a calendar year, approximately 185 students, or 7 percent of students enrolled in a program, do not complete the course and therefore cannot be tested. Smith & Solomon advises that random alcohol and controlled substance testing of driver-students enrolled in driver training program results in substantial cost to the company.

Smith & Solomon requests that the exemption should be granted because:

(A) Administering a random controlled substances and alcohol testing program to a student population that changes every 4 weeks makes regulatory compliance very difficult and financially burdensome to achieve, without any additional benefit to the public safety; and

(B) Its program of requiring pre-enrollment, reasonable suspicion and post-accident alcohol and controlled substance testing to students who only train behind the wheel of a commercial motor vehicle, always with certified and licensed employee driver instructors, for approximately 30 hours during the enrollment period, adequately protects the public safety.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment on Smith & Solomon's application for exemption from 49 CFR 382.305. The FMCSA will consider all comments received by close of business on October 9, 2007. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The FMCSA will file comments received after the comment closing date in the public docket and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file in the public docket relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: August 29, 2007.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E7–17550 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No: FTA–2007–29075]

National Transit Database: Rural Reporting Manual

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Availability of National Transit Database Rural Reporting Manual.

SUMMARY: This notice provides interested parties with the opportunity to comment on the Federal Transit Administration's (FTA) National Transit Database (NTD) Rural Reporting Manual (Rural Manual). Pursuant to 49 U.S.C. 5335, FTA requires recipients of grants under 49 U.S.C. 5311 (Other Than Urbanized Area Formula Grants) to provide an annual report to the Secretary of Transportation via the NTD reporting system according to a uniform system of accounts (USOA). 49 U.S.C. 5311 provides additional specifications for annual reporting from recipients of Section 5311 grants. The Rural Manual provides complete details as to FTA's implementation of these annual requirements through reporting to the Rural NTD Module. In accordance with 49 U.S.C. 5334, and in an ongoing effort to be responsive to the needs of NTD reporters, the Rural Manual is available in the DOT docket for public comment.

DATES: Comments must be received on or before October 9, 2007. FTA will consider late filed comments to the extent practicable.

ADDRESSES: You may submit comments at the following Web site: *http://dms.dot.gov.* Follow the instructions there for submitting comments to the DOT electronic docket.

Fax: 202–493–2251.

Mail: Docket Management System; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

Hand Delivery: To the Docket Management System; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: When submitting comments electronically to the Department's Docket Management System (DMS) Web site located at *http://dms.dot.gov*, you must use docket number FTA–2007–29075. This will ensure that your comment is placed in the correct docket. If you submit comments by mail, you should submit two copies and include the above docket number. Note that all comments received will be posted, without change, to *http://dms.dot.gov* including any personal identifying information. This means that if your comment includes any personal identifying information, such information will be made available to users of DMS. You may review the Department's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For program issues, John D. Giorgis, Office of Budget and Policy, (202) 366–5430 (telephone); (202) 366–7989 (fax); or *john.giorgis@dot.gov* (e-mail). For legal issues, Richard Wong, Office of the Chief Counsel, (202) 366–0675 (telephone); (202) 366–3809 (fax); or *richard.wong@dot.gov* (e-mail).

SUPPLEMENTARY INFORMATION: The National Transit Database (NTD) is the Federal Transit Administration's (FTA's) primary database for statistics on the transit industry. Recipients of grants under 49 U.S.C. 5307 (Urbanized Area Formula Grants) or under 49 U.S.C. 5311 (Other Than Urbanized Area Formula Grants) are required by statute to submit data to the NTD. These data are used to ''help meet the needs of * * * the public for information on which to base public transportation service planning * * *'' (49 U.S.C 5335). The statute further specifies that recipients of grants under 49 U.S.C. 5311 are required to submit an annual report ''containing information on capital investment, operations, and service provided with funds received. * * * . including,

(A) total annual revenue;
(B) sources of revenue;
(C) total annual operating costs;
(D) total annual capital costs;
(E) fleet size and type, and related facilities;
(F) revenue vehicle miles; and
(G) ridership.'' (49 U.S.C. 5311)

The National Transit Database Rural Reporting Manual (Rural Manual) provides complete details as to FTA's implementation of these annual requirements for recipients of grants under 49 U.S.C. 5311 through reporting to the Rural NTD Module.

Currently, over 650 transit agencies in urbanized areas already report to the NTD through an Internet-based reporting system. Pursuant to 49 U.S.C. 5335, FTA is expanding NTD reporting to include recipients of grants under 49 U.S.C. 5311 (Other Than Urbanized Area Formula Grants.) Recipients of these grants include the 50 States, Puerto Rico, American Samoa, Guam, and the Northern Marianas. (By statute, the Virgin Islands are considered to be an urbanized area for purposes of FTA grant-making.) Additionally, a number of Indian Tribes are also direct recipients of grants under 49 U.S.C. 5311. In addition to fulfilling a statutory requirement, this data will be used in the annual National Transit Summaries and Trends report, the biennial Conditions and Performance Report to Congress, and in meeting FTA's obligations under the Government Performance and Results Act.

This notice provides interested parties with the opportunity to comment on FTA's Rural Manual. The Rural Manual is available in the DOT Docket FTA–2007–29075 and may also be reviewed on the NTD Web site, *http://www.ntdprogram.gov.*

Issued in Washington, DC, this 29th day of August 2007.

James S. Simpson,

Administrator.

[FR Doc. E7–17549 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No: FTA–2007–28960]

National Transit Database: Amendments to Urbanized Area Annual Reporting Manual

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Availability of Proposed Amendments to the 2007 National Transit Database Urbanized Area Annual Reporting Manual.

SUMMARY: This notice provides interested parties with the opportunity to comment on changes to the Federal Transit Administration's (FTA) 2007 National Transit Database (NTD) Urbanized Area Annual Reporting Manual (Annual Manual). Pursuant to 49 U.S.C. 5335, FTA requires recipients of FTA Urbanized Area Formula Grants to provide an annual report to the Secretary of Transportation via the NTD reporting system according to a uniform system of accounts (USOA). In an ongoing effort to improve the NTD

reporting system and be responsive to the needs of the transit agencies reporting to the NTD, FTA annually refines and clarifies the reporting requirements through revisions to the Annual Manual. At this time, FTA is not accepting comments on the NTD Rural Reporting Manual. Comments will be accepted by FTA on the NTD Rural Reporting Manual under a separate **Federal Register** Notice, which will be forthcoming.

DATES: Comments must be received on or before October 9, 2007. FTA will consider late filed comments to the extent practicable.

ADDRESSES: You may submit comments at the following Web site: *http://dms.dot.gov.* Follow the instructions there for submitting comments to the DOT electronic docket.

Fax: 202–493–2251.

Mail: Docket Management System; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

Hand Delivery: To the Docket Management System; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: When submitting comments electronically to the Department's Docket Management System (DMS) Web site located at *http://dms.dot.gov,* you must use docket number FTA–2007–28960. This will ensure that your comment is placed in the correct docket. If you submit comments by mail, you should submit two copies and include the above docket number. Note that all comments received will be posted, without change, to *http://dms.dot.gov* including any personal identifying information. This means that if your comment includes any personal identifying information, such information will be made available to users of DMS. You may review the Department's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For program issues, John D. Giorgis, Office of Budget and Policy, (202) 366–5430 (telephone); (202) 366–7989 (fax); or *john.giorgis@dot.gov* (e-mail). For legal issues, Richard Wong, Office of the Chief Counsel, (202) 366–0675 (telephone); (202) 366–3809 (fax); or *richard.wong@dot.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

I. Background

The National Transit Database (NTD) is the Federal Transit Administration's (FTA's) primary database for statistics on the transit industry. Recipients of FTA's Urbanized Area Formula Program (section 5307) and Other Than Urbanized Area Formula Program (section 5311) are required by statute to submit data to the NTD. These data are used to ''help meet the needs of * * * the public for information on which to base public transportation service planning * * * '' (49 U.S.C. 5335).

Currently, over 650 transit agencies in urbanized areas report to the NTD through an Internet-based reporting system. Each year, performance data from these submissions are used to apportion over $4 billion of FTA funds under the Urbanized Area Formula Grants Program. These data are also used in the annual National Transit Summaries and Trends report, the biennial Conditions and Performance Report to Congress, and in meeting FTA's obligations under the Government Performance and Results Act.

In an ongoing effort to improve the NTD Internet reporting system and to be responsive to the needs of the transit agencies reporting to the NTD and the transit community, FTA annually refines and clarifies reporting requirements to the NTD. This notice provides interested parties with the opportunity to comment on changes to FTA's 2007 Urbanized Area Annual NTD Module Reporting Manual (Annual Manual). For purposes of comparison, the 2006 Urbanized Area Annual NTD Module Reporting Manual can be reviewed on the NTD Web site, *http://www.ntdprogram.gov.*

II. Proposed Changes in the 2007 Annual Manual

Basic Information Module

FTA proposes two changes to the Basic Information Form (B–10). First, for the 2007 reporting cycle, FTA proposes to require purchasers of transportation services from private providers to report all the data for these services in the purchaser's NTD submission. Previously, the sellers of purchased transportation services could report separately in some cases. This change will unify all data for a given transit agency into a single report.

Second, for purchased transportation services between two public NTD reporting agencies, FTA proposes to require the service to be reported as directly operated service. Either the public transit agency that is buying the service or the public transit agency that is selling the service may choose to report the service, by mutual agreement of the parties, but the service must be reported as directly operated service. This change is being made because the purpose of collecting separate data for directly operated and purchased transportation services is to allow an assessment of the costs and benefits to public transportation agencies in using private companies as providers for public transportation services in their operations. Including some public transportation agencies as providers of purchased transportation services, however, confuses this purpose. FTA notes that the apportionment of section 5307 funds is based on the urbanized area where the service is provided, and is therefore not affected by which agency reports the service.

Peak Service Data

FTA proposes to require rail transit agencies to report Average Weekday Unlinked Passenger Trips and Actual Passenger Car Revenue Miles by four time categories: Weekday AM Peak, Weekday Midday, Weekday PM Peak and Weekday Other. Previously, FTA only required rail transit agencies to report Average Weekday Unlinked Passenger Trips and Actual Passenger Car Revenue Miles without distinction as to time of day. This data requirement is being added to support the biannual Conditions and Performance Report (C&P Report), which is jointly prepared by FTA and the Federal Highway Administration (FHWA). The C&P Report requires FTA to provide estimates to Congress of the Nation's transit physical conditions, operational performance, and future investment needs. FTA currently measures the capacity utilization of transit rail systems based on the capacity utilization of the system as a whole at all times of the day and during all days of the week, without regard to peak ridership demands. As a result, FTA may be understating the current capacity utilization of transit rail systems, and thus underestimating the Nation's future investment needs for rail transit. FTA plans to use rail transit agencies' average passenger trip length in conjunction with this data to compare peak passenger miles with peak vehicle revenue miles to determine peak capacity utilization. By collecting and analyzing this peak data, FTA plans to determine if there is greater need for additional rail transit capacity than previously realized.

Federal Funding Allocation

FTA proposes to require those few transit agencies that service one

urbanized area over 200,000 in population (large urbanized area) and two or more urbanized areas under 200,000 in population (small urbanized areas) to separately allocate their operations, operational expense, and fixed guideway data among each of the urbanized areas under 200,000 in population that it serves. Previously, the NTD only accounted for a transit agency servicing one large urbanized area and one small urbanized area. It did not account for a transit agency servicing one large urbanized area and two small urbanized areas. This change will address that oversight, and provide data that can be used for the apportionment of Small Transit Intensive Cities (STIC) Grants, as required by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU).

Financial Module

FTA proposes to require transit agencies to separate funds that were previously reported as ''Other FTA Funds'' into different categories for each FTA program. Previously, the NTD required FTA funds only to be reported as either Urbanized Area Formula Funds (section 5307), Capital Program Funds (section 5309), or as Other FTA Funds. The additional categories being proposed by FTA are:

- FTA Metropolitan Planning (section 5303);
- Clean Fuels Program (section 5309);
- Special Needs of Elderly Individuals and Individuals with Disabilities Formula Program (section 5310);
- Other Than Urbanized Area Formula Program (section 5311);
- Jobs Access and Reverse Commute Formula Program (section 5316);
- New Freedom Program (section 5317); and
- Alternative Transportation in Parks and Public Lands (section 5320).

This requirement is designed to improve the NTD's usefulness as a source of information for public transportation planning purposes by providing greater detail as to the sources of funds that are available to transit agencies. Additionally, this requirement is designed to support measurement of performance for the various FTA grant-making programs.

Declarations

FTA proposes to create a standard form for submitting the Chief Executive Officer's (CEO) certification. Previously, CEOs submitted a letter to the NTD as their certification. In prior report years, many transit agencies have submitted CEO certifications that did not conform to all of the requirements for certification. By creating a standard form, FTA seeks to ensure the uniformity of CEO certifications, and to simplify the CEO certification process for reporters.

Sampling Requirement

FTA proposes, beginning in 2008, to require all transit agencies to conduct a statistical sample of average trip lengths (used for calculating passenger miles traveled) every three years, unless they are a large transit agency that is already required to sample every year. Previously, FTA only required some agencies to sample every five years. FTA proposes to require transit agencies that previously sampled only once every five years to now sample every three years in order to ensure the accuracy of passenger mile data used in the apportionment of funds, particularly in regard to the Small Transit-Intensive Cities (STIC) apportionment. Further, by moving most transit agencies to a single cycle for mandatory sampling, FTA will reduce confusion in regards to sampling requirements. FTA notes that 2008 was already going to be a mandatory sampling year for all transit agencies on both the three year cycle and the five year cycle.

Issued in Washington, DC, this 29th day of August 2007.

James S. Simpson,

Administrator.

[FR Doc. E7–17564 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2007–29133; Notice No. 07–08]

Safety Advisory Guidance: Use of Mobile Acetylene Trailers

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA).

ACTION: Safety advisory notice; request for comments.

SUMMARY: This safety advisory is addressed to persons involved in the use, operation, fabrication, or other handling of mobile acetylene trailers. In this notice, we discuss recent acetylene incidents, requirements in the Hazardous Materials Regulations, national consensus standards issued by the Compressed Gas Association and National Fire Protection Association, operating procedures, fire mitigation and detection systems, and training of persons who operate, charge, and discharge mobile acetylene trailer systems. We urge companies and workers to review their operating practices to ensure that filling and discharge operations are conducted in the safest possible manner. In addition, we are requesting information on the effectiveness of current DOT regulations and industry best practices, as well as suggestions for enhancing the safety of these operations.

DATES: Submit comments by November 5, 2007.

ADDRESSES: You may submit comments identified by the docket number (PHMSA–2007–29133) by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1 202 493 2251.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue, SE., Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number (PHMSA–2007–29133) for this notice at the beginning of your comment. Internet users may access comments received by the Department of Transportation at *http://dms.dot.gov.* Note that comments received may be posted without change to *http://dms.dot.gov* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ben Supko, Office of Hazardous Materials Standards, Pipeline and Hazardous Materials Safety Administration, (202) 366–8553, or Charles Hochman, Director, Office of Hazardous Materials Technology, Pipeline and Hazardous Materials Safety Administration, (202) 355–4545.

SUPPLEMENTARY INFORMATION:

I. Background

Acetylene is a highly flammable gas that requires special packaging and handling procedures to be transported safely. Acetylene is regulated as a Division 2.1 flammable gas under the Hazardous Materials Regulations (HMR;

49 CFR parts 171–180) and is subject to stringent packaging and handling requirements. Acetylene is filled and transported in cylinders containing a porous mass and solvent; transportation in bulk containers is prohibited.

In place of bulk packaging, mobile acetylene trailers (MATs) are used to transport large quantities of acetylene. The Compressed Gas Association (CGA) defines a MAT as a group of cylinders, secured together as a unit, mounted on an open transport vehicle, and manifolded for containing and transporting acetylene.

On July 25, 2007, shortly after 9 am, at a Southwest Industrial Gases facility in Dallas, Texas, a MAT delivered by Western International Gas and Cylinders Inc. caught fire while the trailer was being prepared to discharge acetylene to the facility. The origin of the fire has not been identified. Witness reports state that a small fire began at the rear of the trailer and then spread to cylinders in the facility. The fire burned for more than an hour and ruptured a number of cylinders with explosive effects. Three people were injured. The fire caused the closure of local streets and Interstates 30 and 35E for much of the day and destroyed four trailers at the Southwest Industrial Gases facility. Both the Chemical Safety Board (CSB) and National Transportation Safety Board (NTSB) are investigating the incident; PHMSA is assisting with the investigations.

On August 7, 2007, just north of Houston, Texas, outside of the Hughes Christensen Co., a fire started on a MAT delivered by Western International Gas and Cylinders, Inc. None of the cylinders ruptured, and firefighters were able to douse the acetylene cylinders with water and keep the fire confined to the trailer. No one was hurt, but 800 employees were evacuated. NTSB and CSB are also investigating this incident; PHMSA is participating in the investigations.

II. PHMSA Regulations

The HMR specify requirements for the safe transportation of hazardous materials in commerce by rail car, aircraft, vessel, and motor vehicle. The hazardous material regulatory system is a risk management system that is prevention-oriented and focused on identifying a safety or security hazard and reducing the probability of and consequence from a hazardous material release. Under the HMR, hazardous materials are categorized into hazard classes and packing groups based upon the risks they present during transportation. The HMR specify appropriate packaging and handling requirements for hazardous materials, and require a shipper to communicate the material's hazards through use of shipping papers, package marking and labeling, and vehicle placarding. The HMR also require shippers to provide emergency response information applicable to the specific hazard or hazards of the material being transported. Finally, the HMR mandate training requirements for persons who prepare hazardous materials for shipment or who transport hazardous materials in commerce. The HMR also include operational requirements applicable to each mode of transportation. The HMR apply to each person who offers a hazardous material for transportation in commerce, causes a hazardous material to be transported in commerce, or transports a hazardous material in commerce (see 49 CFR 171.1(b) and (c)).

Under the HMR, acetylene is regulated as a Division 2.1 flammable gas. Acetylene is only authorized for transportation in DOT specification 8 or 8AL cylinders or in UN cylinders conforming to ISO 3807–2 (see 49 CFR 173.303). Transportation of acetylene in bulk packagings, such as cargo tanks, portable tanks, or rail tank cars is prohibited. Section 173.301(f) requires cylinders to be equipped with one or more pressure relief devices sized and selected as to type, location, and quantity, and tested in accordance with CGA S–1.1 and S–7. For acetylene, CGA S–1.1 requires DOT 8 or 8AL cylinders to be fitted with a CG–3 fusible plug, which operates at 212°F. The plug must be proven using the fire test method specified in CGA publication C–12. To ensure the stability of the acetylene during transportation, cylinders are constructed with porous filler and are charged with solvent. The porous filler is typically calcium silicate, and the solvent is typically acetone or dimethylformamide. The amount of solvent and porous filler must be closely monitored to prevent overfilling. Sections 178.59(l)(4)(i) and 178.60(p)(4)(i) establish requirements regarding the amount and porosity of the porous filler and maximum amount of solvent authorized based on the water capacity of DOT 8 and 8AL cylinders.

The HMR permit acetylene cylinders to be manifolded during transportation (see 49 CFR 173.301(g)(1)(iii)). However, the manifolded cylinders must conform to the following conditions: (1) Manifolded branch lines must be sufficiently flexible to prevent damage to the valves; (2) the cylinders must be supported and held together as a unit by structurally adequate means; (3) each cylinder must be equipped with an individual shutoff valve that is tightly closed in transit and an individual pressure relief device that discharges upward; and (4) the valves and pressure relief devices must be protected from damage by framing, a cabinet, or other method.

The requirements for the transportation of hazardous materials by highway are found in Part 177 of the HMR, including requirements for loading and unloading hazardous materials from highway transport vehicles. When cylinders containing acetylene and other Class 2 gases are transported in commerce, they must be securely restrained in a manner that prevents shifting, overturning, or ejection from the motor vehicle under normal transportation conditions (see 49 CFR 177.840(a)(1)). Normal transportation conditions include vehicle starting, stopping, cornering, accident avoidance, and varied road conditions. We request comments pertaining to the adequacy of current securement requirements for cylinders, including whether existing securement measures would withstand the force of an accident or rollover. Comments should consider the protection from damage afforded to manifolded cylinders by framing, cabinets, or other methods, as required by § 173.301(g)(1)(iii)).

Except for cargo tanks and portable tanks, the HMR generally prohibit the discharge or emptying of a package's contents prior to its removal from the motor vehicle (see 49 CFR 177.834(h)). However, this general prohibition does not apply in all circumstances. For example, it has been our longstanding interpretation that the prohibition in § 177.834(h) does not apply to tube trailers, which are 3AX, 3AAX, and 3T cylinders mounted to a transport vehicle, because removing them from the motor vehicle prior to discharging their contents is not practicable. We have long applied the same standard to discharge operations involving manifolded acetylene cylinders that are mounted to a transport vehicle.

III. National Consensus Standards

Several national consensus standards apply to the generation, storage, movement, and use of acetylene. The standards cover filling and discharge operations for acetylene cylinders and the transportation of such cylinders. Persons involved in these operations should thoroughly review these standards to ensure that they are utilizing appropriate safety practices. Below we list and summarize applicable national consensus standards.

A. CGA G–1, Acetylene

This standard, developed by the Compressed Gas Association (CGA), provides general information on the characteristics of acetylene and proper handling procedures. The publication begins by describing the manufacturing process, composition, properties, and the physiological effects of acetylene. It continues by detailing the HMR requirements that apply to shipments of acetylene. It describes authorized packaging, valves, pressure relief devices, filling limits, and hazard communication. In addition, it outlines safe methods for storing acetylene cylinders at a fixed facility location and safe methods for handling and using acetylene. The standard concludes by discussing the type of piping that is suitable for acetylene.

B. NFPA 51A—Standard for Acetylene Cylinder Charging Plants

This standard, published by the National Fire Protection Association (NFPA), establishes safeguards for the design, construction, and installation of acetylene cylinder charging plants. The standard applies to plants that are engaged in the generation and compression of acetylene and charging of cylinders with acetylene. The standard applies to the location, arrangement, construction, design, and development of facilities used in the generation of acetylene and also includes valuable information regarding the charging of manifolded cylinders. In fact, Chapter 10 of the NFPA 51A standard specifically addresses facility-based acetylene cylinder charging manifolds. Though the standard does not provide specific transportation-related information, the safety precautions recommended for facility-based charging stations are very similar to those used to charge MATs, including:

- Charging manifolds must have a shutoff and blowdown valve vented outside or to the low pressure system.
- A check valve must be installed in the facility pipeline at each cylinder charging manifold and lead.
- Pressure gauges must be protected by a device that stops a detonation of flame and limits a rise in pressure.
- Manifold outlets must have a shutoff valve.
- Manifolds must be arranged to limit stress in the cylinder charging leads.
- In order to prevent liquefying of acetylene at low ambient temperatures, specific maximum charging pressures based on ambient air temperature must be followed.
- Cylinder valves must be opened first at the start of charging and closed last at the end of charging.
- Acetylene cylinders connected to charging manifolds must have provisions for cooling by water spray applied from a manually activated spray nozzle system where needed for removing heat from solution acetylene, as determined by ambient temperature and cylinder charging rate.

C. CGA G–1.6, Recommended Practices for Mobile Acetylene Trailer Systems

In this publication, CGA provides safe practices for the design, construction, and operation of MATs. The publication also provides recommended safe practices for auxiliary equipment used in conjunction with MATs, including piping, regulators, flash arrestors, and meters. The standard specifically addresses the following areas:

1. *Design and construction (CGA G–1.6, Section 4)*

- Trailer must conform to all applicable Federal, state, and local regulations.
- A grounding system for the piping that conforms to NFPA 70, National Electrical Code, must be provided to ground the piping system.
- Piping must: be carbon steel, stainless steel, wrought iron, malleable iron, or copper alloys containing not more than 65% copper; conform to the American National Standard Institute A13.1, Scheme for Identification of Piping Systems; be braced and supported; and meet the appropriate Schedule based on pressure.
- Leads between cylinders and manifolds must be sufficiently long and flexible to minimize strain on valves and leads.
- Manifolds must be equipped with a shut-off valve, pressure gauge, and vent.
- Vents and pressure relief devices must be directed upwards above the acetylene piping.
- Protective equipment must be installed between a MAT and facility piping.
- Cylinders must: conform to the HMR; be vertical, supported, and secured; have valves that are capable of being closed in the event of an emergency; have similar functional characteristics, including dimensions, porous mass, solvent, and solvent quantity; and be arranged in aisles to allow access.

2. *Operation (CGA G–1.6 Section 5)*

- To be charged, cylinders must conform to applicable HMR requirements.
- Cylinders must be marked in accordance with CGA C–7, ''Guide to the Preparation of Precautionary Labeling and Marking of Compressed Gas Containers.''
- In order to prevent liquefying of acetylene, specific maximum charging pressures based on ambient air temperature must be followed.
- During cylinder charging, valves are to be opened first and closed after the pressure between manifolded cylinders equalizes (takes several hours).
- Valves must be closed during transportation.
- Acetylene pressure must be maintained in leads and manifolds during delivery and return shipments.
- Legible instructions must be posted at the discharge location when consumers use any equipment to discharge the acetylene.
- The trailer must be chocked or secured to prevent movement during discharge.
- During any manual valve operations, or when the trailer is being connected or disconnected, a trained person must be in attendance.
- When acetylene is discharged in an enclosure, appropriate venting to the outside must be used.
- The flow rate of acetylene for intermittent withdrawal from the trailer must not exceed 10% of the trailer capacity per hour, for continuous withdrawal the flow rate should not exceed 6.6% (1/15) of the trailer capacity per hour.

3. Associated equipment (CGA G–1.6, Section 6)

- The trailer discharge station must be in conformance with NFPA 50, ''Standard for Bulk Oxygen Systems at Consumer Sites'' and be a minimum distance of 50 feet from property lines, bulk flammable liquid storage, and non-acetylene bulk flammable gas storage.
- The trailer must be a minimum distance of 25 feet from property lines, 50 feet from combustible construction, and 15 feet from non-combustible construction.
- The trailer site must: Provide adequate space for positioning the trailer and be protected with curbing or guardrails; be not exposed to power, flammable liquid, flammable gas, or oxidizing lines; be equipped with signage stating ''ACETYLENE—FLAMMABLE GAS'NO SMOKING—NO OPEN FLAMES'; and have a grounding system for the trailer.
- Appropriate hoses, meters and electrical equipment must be used.

4. General provisions (CGA G–1.6, Section 7)

- MATs must be marked and placarded in accordance the Part 172, Subparts D and F of the HMR.
- Charging and discharging stations for MATSs must be provided with

conspicuously located and easily accessible fire hoses or fixed spray systems and dry chemical fire extinguishers. Nozzles on fire hoses should be of the type that adjusts from full stream to a fog pattern.

• Exits and fire protection equipment may not be blocked or obstructed.

IV. Recommended Practices

The standards summarized above outline specific procedures for filling, discharging, and transporting acetylene cylinders and for storing and using acetylene. Based on our review of the recent incidents and the applicable national consensus standards, we recommend that entities involved in the transportation of acetylene, particularly the filling and discharge of manifolded cylinders mounted on a motor vehicle, implement safety procedures conforming to applicable sections of CGA G–1, ''Acetylene (1990), NFPA 51A Standard for Acetylene Charging Plants'' (2006 Edition), and CGA G–1.6, ''Recommended Practices for Mobile Acetylene Trailer Systems,'' (1996, Fourth Edition, Reaffirmed 2001). In addition, entities must ensure that acetylene cylinders fully comply with all HMR requirements applicable to the specification cylinder, including cylinder components such as valves, pressure relief devices, porous filler, and solvent.

The CSB Web site provides several examples of best practices to mitigate fires, including the use of fire monitors and water deluge and sprinkler systems. We strongly recommend that entities involved in the transportation of acetylene review the best practices highlighted by CSB and implement those that apply to their operations. In particular, facility operators should consider the installation of fire monitors and water deluge or sprinkler systems. In the event of a cylinder fire, the presence of such fire mitigation systems will help cool the cylinders, reducing the likelihood of additional gas releases, cylinder ruptures, and other potentially catastrophic consequences. For additional information, the CSB's Web site provides best practices based on a Praxair Flammable Gas Cylinder Fire that occurred in St. Louis, MO on June 24, 2005. A safety bulletin and video addressing the Praxair incident can be found at *http://www.csb.gov/index.cfm?folder=completed_investigations&page=info&INV_ID=59#*.

The acetylene accidents covered in this safety advisory notice occurred in conjunction with our assessment of the safety risks associated with bulk loading and unloading operations. On June 14, 2007, we hosted a public workshop to examine industry data, identify industry best practices and standards, discuss the role of recommended practices, and consider industry actions that have the potential to reduce risk during loading and unloading. Representatives from industry, federal agencies, state and local government, standards organizations, the emergency response community, employee groups, environmental and public interest organizations, and the public participated in the meeting. As a result of this collaborative effort between PHMSA and our stakeholders, we developed a set of recommended practices that are generally applicable to loading and unloading operations involving hazardous materials in many different types of packagings and a number of different operational and modal contexts. Consistent with these recommended practices, we recommend that shippers and carriers of acetylene develop and implement specific procedures for loading and unloading operations that are based on an assessment of the safety risks associated with the type of loading or unloading operation being conducted and the material or materials involved. Please consider the following guidelines when developing operating procedures for acetylene:

(1) Make sure employees know and understand their specific responsibilities during loading and unloading operations, including attendance or monitoring responsibilities.

(2) Identify and implement appropriate safety precautions, including measures specific to the material transported, such as pressure or temperature controls and maximum filling limits; necessary protective equipment; controlling access to the area where the operations take place; procedures for connecting and disconnecting piping, hoses, and connections; ignition sources; and procedures for monitoring the loading and unloading operations.

(3) Identify and implement appropriate pre-transfer procedures, including pre-transfer inspections of the transport unit, packaging, transfer area, and piping, hoses, or other connections are free of defects, leaks, or other problems that could result in an unsafe condition.

(4) Identify and implement appropriate transfer procedures;

(5) Identify and implement appropriate emergency procedures, including identification of emergency response equipment and individuals authorized in its use; incident response; use of emergency shut-down systems; and emergency communication and spill reporting.

In addition, we remind entities that offer for transportation or transport acetylene cylinders that their employees must be trained. In accordance with the requirements in Subpart H of Part 172 of the HMR, persons who directly affect hazardous materials transportation safety must complete training that covers the following:

1. *General awareness training* designed to familiarize each employee with the requirements of the HMR and to enable each employee to recognize and identify hazardous materials.

2. *Function-specific training* designed to ensure that each employee understands how he is to perform the functions or operations for which he is responsible. Training for employees responsible for loading or unloading operations should include training on established procedures applicable to such operations, as well as national consensus standards that have been incorporated into such procedures.

3. *Safety training* concerning emergency response information applicable to the specific hazardous material(s) handled, measures to protect the employee from the hazards associated with the materials to which the employee may be exposed in the work place, and methods and procedures for avoiding incidents.

4. *Security training* that provides an awareness of the security risks associated with hazardous materials transportation and methods to enhance transportation security.

We believe that the procedures outlined above, including those contained in the CGA and NFPA standards, combined with a rigorous training program, will ensure that persons responsible for filling, operating, and discharging MATs have the knowledge and information to enable them to conduct these operations safely. We urge shippers and carriers engaged in these operations to evaluate their current operations, review the national consensus standards, and make adjustments in procedures and practices where necessary to minimize the safety risks associated with the transportation of acetylene on MATs.

VI. Enhanced Safety Program for Mobile Acetylene Trailers

We plan to work with acetylene shippers and carriers, emergency responders, associations such as CGA and NFPA, government agencies concerned with the safe handling and use of acetylene, and other stakeholders to assess the effectiveness of current

safety procedures used for filling, operating, and discharging MATs to determine whether additional safety procedures should be implemented. To this end, we request that persons who use such transportation systems to provide us with information on the effectiveness of the current DOT regulations, consensus standards, and industry best practices. We are also interested in any other procedures utilized to ensure that operations related to the transportation of acetylene on MATs are performed safely.

We would also like to work with shippers, carriers, and facilities that receive shipments of acetylene in MATs to develop and implement a pilot program to test the effectiveness of current or alternative procedures or methods designed to enhance the safety of transportation operations involving acetylene on MATs. As part of this program, we will assist individual companies or facilities to evaluate the effectiveness of their current procedures and to identify additional measures that should be implemented. We welcome suggestions concerning how such a program should be structured and the entities that should participate.

To ensure that our message reaches all stakeholders affected by these risks, we plan to communicate this advisory through our public affairs notification and outreach processes. For additional visibility, we have made this advisory available on the PHMSA homepage at *http://www.phmsa.dot.gov* and the DOT electronic docket site at *http://dms.dot.gov*. In addition, if you are aware of other companies that are involved in the charging, operating, and discharging MATs, please share this advisory notice with them and, if possible, identify them in your correspondence with this agency. We believe a collaborative effort involving an integrated and cooperative approach will help us to address safety risks, reduce incidents, enhance safety, and protect the public.

Issued in Washington, DC on August 30, 2007.

Theodore L. Willke,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 07–4355 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2004–19856]

Pipeline Safety: Updated Notification of the Susceptibility to Premature Brittle-Like Cracking of Older Plastic Pipe

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice; Issuance of Advisory Bulletin.

SUMMARY: PHMSA is issuing this updated advisory bulletin to owners and operators of natural gas pipeline distribution systems concerning the susceptibility of older plastic pipe to premature brittle-like cracking. PHMSA previously issued three advisory bulletins on this subject: Two on March 11, 1999 and one on November 26, 2002. This advisory bulletin expands on the information provided in the three prior bulletins by listing two additional pipe materials with poor performance histories relative to brittle-like cracking and by updating pipeline owners and operators on the ongoing voluntary efforts to collect and analyze data on plastic pipe performance. Owners and operators of natural gas pipeline distribution systems are encouraged to review the three previous advisory bulletins in their entirety.

FOR FURTHER INFORMATION CONTACT: Richard Sanders at (405) 954–7214, or by e-mail at *richard.sanders@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. National Transportation Safety Board (NTSB) Investigation

On April 23, 1998, the National Transportation Safety Board (NTSB) issued its Special Investigation Report, *Brittle-Like Cracking in Plastic Pipe for Gas Service,* NTSB/SIR–98/01. The report described the results of the NTSB's special investigation of polyethylene gas service pipe, which addressed three major safety issues: (1) Vulnerability of plastic piping to premature failures due to brittle-like cracking; (2) adequacy of available guidance relating to the installation and protection of plastic piping connections to steel mains; and, (3) effectiveness of performance monitoring of plastic pipeline systems to detect unacceptable performance in piping systems.

(1) *Vulnerability of plastic piping to premature failures due to brittle-like cracking:* The NTSB found that failures in polyethylene pipe in actual service are frequently brittle-like, slit failures, not ductile failures. It concluded the number and similarity of plastic pipe accident and non-accident failures indicate past standards used to rate the long-term strength of plastic pipe may have overrated the strength and resistance to brittle-like cracking for much of the plastic pipe manufactured and used for gas service from the 1960s through the early 1980s. The NTSB also concluded any potential public safety hazards from these failures are likely to be limited to locations where stress intensification exists. The NTSB went on to state that more durable modern plastic piping materials and better strength testing have made the strength ratings of modern plastic piping more reliable.

(2) *Adequacy of available guidance relating to the installation and protection of plastic piping connections to steel mains:* The NTSB concluded that gas pipeline operators had insufficient notification of the brittle-like failure potential for plastic pipe manufactured and used for gas service from the 1960s to the early 1980s. The NTSB also concluded this may not have allowed companies to implement adequate surveillance and replacement programs for older plastic piping. The NTSB explained the Gas Research Institute (GRI) developed a significant amount of data on older plastic pipe but the data was published in codified terms making it insufficient for use by pipeline system operators. The NTSB recommended that manufacturers of resin and pipe, industry trade groups and the Federal government do more to alert pipeline operators to the role played by stress intensification from external forces in the premature failure of plastic pipe due to brittle-like cracking.

(3) *Effectiveness of performance monitoring of plastic pipeline systems as a way of detecting unacceptable performance in piping systems:* The NTSB's analysis noted that Federal regulations require pipeline operators to have an ongoing program to monitor the performance of their pipeline systems. However, the NTSB investigation revealed some gas pipeline operators' performance monitoring programs did not effectively collect and analyze data to determine the extent of possible hazards associated with plastic pipeline systems. The NTSB pointed out, ''such a program must be adequate to detect trends as well as to identify localized problem areas, and it must be able to relate poor performance to specific factors such as plastic piping brands, dates of manufacture (or installation dates), and failure conditions.''

Copies of this report may be obtained by searching the NTSB Web site at *www.ntsb.gov.*

II. Advisory Bulletins Previously Issued by PHMSA

The NTSB made several recommendations to PHMSA and to trade organizations in its 1998 special investigation report. In response, PHMSA issued three advisory bulletins. The first advisory bulletin, ADB–99–01, *Potential Failure Due to Brittle-Like Cracking of Certain Polyethylene Plastic Pipe Manufactured by Century Utility Products Inc,* was published in the **Federal Register** (FR) on March 11, 1999 (64 FR 12211) to advise natural gas pipeline distribution system operators that brittle-like cracking may occur on certain polyethylene pipe manufactured by Century Utility Products, Inc.

The second advisory bulletin, ADB–99–02, *Potential Failures Due to Brittle-Like Cracking of Older Plastic Pipe in Natural Gas Distribution Systems,* was also published in the **Federal Register** on March 11, 1999 (64 FR 12212) to advise natural gas pipeline distribution system operators of the potential for brittle-like cracking of plastic pipes installed between the 1960s and early 1980s.

The third advisory bulletin, ADB–02–07, *Notification of the Susceptibility To Premature Brittle-Like Cracking of Older Plastic Pipe,* was published in the **Federal Register** on November 26, 2002 (67 FR 70806) to reiterate to natural gas pipeline distribution system operators the susceptibility of older plastic pipe to premature brittle-like cracking. The older polyethylene pipe materials specifically identified in ADB–02–07 included, but were not limited to:

- Century Utility Products, Inc. products;
- Low-ductile inner wall ''Aldyl A'' piping manufactured by DuPont Company before 1973; and
- Polyethylene gas pipe designated PE 3306.

This third advisory bulletin also listed several environmental, installation and service conditions in which plastic piping is used that could lead to premature brittle-like cracking failure. PHMSA also described six recommended practices for polyethylene gas pipeline system operators to aid them with identifying and managing brittle-like cracking problems.

III. Plastic Pipe Studies

Beginning January 25, 2001, the American Gas Association (AGA) began to collect data on in-service plastic piping material failures with the objective of identifying trends in the performance of these materials. The resulting leak survey data, collected from 2001 to present, on the county's natural gas distribution systems includes both actual failure information and negative reports (reports of no leads) submitted voluntarily by participating pipeline operating companies.

The AGA, PHMSA, and other industry and state organizations continue to collect and analyze the data. Unfortunately, the data cannot be correlated with the quantities of each plastic pipe material that may be in service across the United States. Therefore, the data does not assess the failure rates of individual plastic pipe materials on a linear basis (i.e. per foot, per mile, etc.). However, the failure data reinforces what is historically known about certain older plastic piping and components. The data also indicates the susceptibility of additional specific materials to brittle-like cracking.

IV. Advisory Bulletin ADB–07–01

To: Owners and Operators of Natural Gas Pipeline Distribution Systems.

Subject: Updated Notification of the Susceptibility of Older Plastic Pipes to Premature Brittle-Like Cracking.

Advisory: All owners and operators of natural gas distribution systems who have installed and operate plastic piping are reminded of the phenomenon of brittle-like cracking. Brittle-like cracking refers to crack initiation in the pipe wall not immediately resulting in a full break followed by stable crack growth at stress levels much lower than the stress required for yielding. This results in very tight, slit-like, openings and gas leaks. Although significant cracking may occur at points of stress concentration and near improperly designed or installed fittings, small brittle-like cracks may be difficult to detect until a significant amount of gas leaks out of the pipe, and potentially migrates into an enclosed space such as a basement. Premature brittle-like cracking requires relatively high localized stress intensification that may result from geometrical discontinuities, excessive bending, improper installation of fittings, dents and/or gouges. Because this failure mode exhibits no evidence of gross yielding at the failure location, the term brittle-like cracking is used. This phenomenon is different from brittle fracture, in which the pipe failure causes fragmentation of the pipe.

All owners and operators of natural gas distribution systems are future advised to review the three earlier advisory bulletins on this issue. In addition to being available in the **Federal Register**, these advisory bulletins are available in the docket, and on PHMSA's Web site at *http://phmsa.dot.gov/* under Pipeline Safety Regulations.

In the first advisory bulletin, ADB–99–01, published on March 11, 1999 (64 FR 12211), PHMSA advises natural gas distribution system operators of the potential for poor resistance to brittle-like cracking of certain polyethylene pipe manufactured by Century Utility Products, Inc. In the second advisory bulletin, ADB–99–02, published on March 11, 1999 (64 FR 12212), PHMSA advises natural gas distribution system operators of the potential for brittle-like cracking of plastic pipes installed between the 1960s and early 1980s.

In the third advisory bulletin, ADB–02–07, published on November 26, 2002 (67 FR 70806), PHMSA reiterates to pipeline operators the susceptibility of some older plastic pipe to premature brittle-like cracking which could substantially reduce the service life of natural gas distribution systems and to explain the mission of the Plastic Pipe Database Committee (PPDC) ''to develop and maintain a voluntary data collection process that supports the analysis of the frequency and causes of in-service plastic piping material failures.'' The advisory bulletin also lists several environmental, installation and service conditions under which plastic piping is used which is used which could lead to premature brittle-like cracking failure. PHMSA also describes six recommended practices for polyethylene gas pipeline system operators to aid them with identifying and managing brittle-like cracking problems.

Lastly, the susceptibility of some polyethylene pipes to brittle-like cracking is dependent on the resin, pipe processing, and service conditions. As noted in ADB–02–07, these older polyethylene pipe materials include, but are not limited to:

- Century Utility Products, Inc. products;
- Low-ductile inner wall ''Aldyl A'' piping manufactured by DuPont Company before 1973; and
- Polyethylene gas pipe designated PE 3306.

The data now supports adding the following pipe materials to this list:

- Delrin insert tap tees; and,
- Plexco service tee Celcon (polyacetal) caps.

Authority: 49 U.S.C. chapter 601 and 49 CFR 1.53.

Issued in Washington, DC, on August 28, 2007.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 07–4309 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2007–28993]

Pipeline Safety: Adequacy of Internal Corrosion Regulations for Hazardous Liquid Pipelines

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Notice of availability of materials; request for comments.

SUMMARY: This notice announces the availability of materials, including a briefing paper prepared for PHMSA's Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) and data on risks posed by internal corrosion on hazardous liquid pipelines. PHMSA is preparing a report to Congress on the adequacy of the internal corrosion regulations for hazardous liquid pipelines. Participants at a meeting of the THLPSSC discussed issues involved in examining the adequacy of the regulations and requested additional data. PHMSA requests public comment on these matters.

DATES: Submit comments by October 9, 2007.

ADDRESSES: Comments should reference Docket No. PHMSA–2007–28993 and may be submitted in the following ways:

- *E-Gov Web site: http://www.regulations.gov.* This Web site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- *Hand Delivery:* DOT Docket Management System, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number, PHMSA–2007–28993, at the beginning of your comments. If you submit your comments by mail, submit two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*

Note: Comments are posted without changes or edits to *http://www.regulations.gov*, including any personal information provided. There is a privacy statement published on *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Barbara Betsock at (202) 366–4361, or by e-mail at *barbara.betsock@dot.gov.*

SUPPLEMENTARY INFORMATION: The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 directs PHMSA to review the internal corrosion regulations in subpart H of 49 CFR part 195 to determine if they are adequate to ensure adequate protection of the public and environment and to report to Congress on the results of the review. As an initial step in the review, PHMSA consulted the THLPSSC at its meeting on July 24, 2007. The briefing paper prepared for the committee members contains preliminary data on risk history as well as questions relating to the internal corrosion regulations. This briefing paper is posted on PHMSA's pipeline Web site (*http://ops.dot.gov*) and has been placed in the docket.

At the meeting, PHMSA officials committed to gathering additional data responding to questions posed by the committee members. PHMSA has updated the data and included data responsive to the committee members. This data is also posted on the pipeline Web site and contained in the docket.

PHMSA requests comments on the adequacy of the internal corrosion regulations and answers to the questions posed in the briefing paper. PHMSA will use these comments in its review of the internal corrosion regulations.

Authority: 49 U.S.C. 60102, 60115, 60117: Sec. 22, Pub. L. 109–468, 120 Stat. 3499.

Issued in Washington, DC on August 27, 2007.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. E7–17538 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0675]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Center for Veterans Enterprise, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Center for Veterans Enterprise (CVE), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to identify veteran-owned businesses.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 5, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov;* or Gail Wegner (00VE), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *gail.wegner@va.gov.* Please refer to ''OMB Control No. 2900–0675'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Gail Wegner at (202) 303–3296 or FAX (202) 254–0238.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, CVE invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of CVE's functions, including whether the information will have practical utility; (2) the accuracy of CVE's estimate of the burden of the proposed collection of

information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: VetBiz Vendor Information Pages and VA Form 0877.

OMB Control Number: 2900–0675.

Type of Review: Extension of a currently approved collection.

Abstract: The Vendor Information Pages (VIP) will be used to assist federal agencies in identifying small businesses owned and controlled by veterans and service-connected disabled veterans. This information is necessary to ensure that veteran-owned businesses are given the opportunity to participate in Federal contracts and receive contract solicitations information automatically. VA will use the data collected on VA Form 0877 to verify small businesses as veteran-owned or service-disabled veteran-owned.

Affected Public: Business or other for-profit, and Individuals or households.

Estimated Annual Burden: 5,000 hours.

Estimated Average Burden Per Respondent:

VetBiz Vendor Information Pages—20 minutes.

VA Form 0877—5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 12,000.

Dated: August 27, 2007.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–17602 Filed 9–5–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0045]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine the reasonable value of properties for guaranteed or direct home loans.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 5, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0045'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: VA Request for Determination of Reasonable Value VA Form 26–1805 and 26–1805–1.

OMB Control Number: 2900–0045.

Type of Review: Extension of a currently approved collection.

Abstract: VA Forms 26–1805 and 26–1805–1 are used to identify properties to be appraised and to make assignments to an appraiser. VA home loans cannot be guaranteed or made unless the nature and conditions of the property as suitable for dwelling purposes is determined; the loan amount to be paid by the veteran for such property for the cost of construction, repairs, or alterations does not exceed the reasonable value; or if the loan is for repair, alteration, or improvements of property, the work substantially protects or improves the basic livability of the property. VA or the lenders participating in the lender appraisal processing program issues a notice of values to notify the veteran and requester of the determination of reasonable value and any conditional requirements.

Affected Public: Individuals or households.

Estimated Annual Burden: 60,000 hours.

Estimated Average Burden Per Respondent: 12 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 300,000.

Dated: August 27, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–17603 Filed 9–5–07; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
September 6, 2007

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1; Parts 4, 12, and 52
Federal Acquisition Regulations; Final Rules and Small Entity Compliance Guide

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR—2007–002, Sequence 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–20; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rule.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 2005–20 as a pilot program. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.regulations.gov/*.

DATES: For effective dates and comment dates, see the document following this notice.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–20, FAR Case 2006–029. Interested parties may also visit our website at *http://www.regulations.gov*. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

RULE LISTED IN FAC 2005–20

Subject	FAR case	Analyst
Federal Funding Accountability and Transparency Act (FFATA) - Reporting Requirement of Subcontractor Award Data	2006–029	Woodson.

SUPPLEMENTARY INFORMATION: A summary of the FAR rule follows. For the actual revisions and/or amendments to this FAR case, refer to FAR Case 2006–029.

FAC 2005–20 amends the FAR as specified below:

Federal Funding Accountability and Transparency Act (FFATA) - Reporting Requirement of Subcontractor Award Data (FAR Case 2006–029)

This final rule amends the Federal Acquisition Regulation (FAR) to require that contractors report specific subcontract awards to a public database. The Federal Funding Accountability and Transparency Act of 2006 (FFATA) (Pub. L. 109–282) requires the existence and operation of a searchable website that provides public access to information about Federal expenditures. This final rule establishes a pilot program to test the collection and accession of subcontract award data. As a result, subcontracts awarded and funded with Federal appropriated funds will eventually be disclosed to the public in a single searchable website. However, information reported under the pilot program will not be disclosed to the public.

Dated: August 29, 2007.

Al Matera,

Director, Office of Acquisition Policy.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2005-20 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-20 is effective September 6, 2007.

Dated: August 27, 2007.

Shay D. Assad,

Director, Defense Procurement and Acquisition Policy.

Dated: August 29, 2007.

Al Matera,

Acting Senior Procurement Executive, General Services Administration.

Dated: August 28, 2007.

Sheryl Goddard,

Acting Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 07–4338 Filed 9–5–07; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 12, and 52

[FAC 2005–20; FAR Case 2006–029;Docket 2007–0001; Sequence 5]

RIN 9000–AK72

Federal Acquisition Regulation; FAR Case 2006–029, Federal Funding Accountability and Transparency Act (FFATA) - Reporting Requirement of Subcontractor Award Data

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to require that contractors report specific subcontract awards to a public database as a pilot program. The Federal Funding Accountability and Transparency Act of 2006 (FFATA) (Pub. L. 109–282) requires the existence and operation of a searchable website that provides public access to information about Federal expenditures.

DATES: Effective Date: September 6, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Woodson, Procurement Analyst, at (202) 501–3775, for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAC 2005–20, FAR case 2006–029.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the FAR to establish a pilot program to test the collection and accession of subcontract award data. As a result, subcontracts awarded and funded with Federal appropriated funds will be disclosed to the public in a single searchable website. However, information reported under the pilot program will not be disclosed to the public.

The FFATA requires the existence and operation of a searchable website that provides public access to information about Federal expenditures. Section 2(d) of the FFATA requires that a pilot program be established to test the collection and accession of subcontract award data.

In order to implement Section 2(d) of the FFATA, the Councils are adding a new Subpart to FAR Part 4, with an associated clause in FAR Part 52, which addresses reporting subcontract awards. The pilot program will terminate no later than January 1, 2009.

This rule applies to contracts with values equal to or greater than $500 million awarded and performed in the United States, and requires the awardees to report all first tier subcontract awards exceeding $1 million to the FFATA database at *www.esrs.gov*. The Councils chose these thresholds to ensure that a sufficient number of subcontract award reports will be entered in the database to permit assessment of its effectiveness without imposing a significant burden on contractors during the pilot program. The Government does not guarantee the reliability of the data reported. The Government has no mechanism to verify the data submitted. Before completion of the pilot program, the Councils will initiate a separate rulemaking process to establish the requirements for the final subcontract reporting database pursuant to the statute. This rule does not apply to classified contracts or commercial item contracts issued under FAR Part 12.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 72 FR 13234 on March 21, 2007. Seventeen respondents submitted comments in response to the proposed rule. A discussion of the comments is provided below. No changes were made to the rule as a result of those comments.

1. *Burden Imposed and Usefulness of Database*. Thirteen comments were received concerning the burden that will be imposed on contractors in order to capture the required data in the final subcontract reporting database. Some contractors currently do not collect the specific subcontractor data and may need to create a new system of collection. Respondents were concerned about the cost of software modifications necessary to collect the information required by FFATA. In addition, the manual input is perceived to be labor intensive and the cost to ensure compliance, as well as cost to audit, will be significant to both the contractor and the Government. It was suggested that the pilot threshold of $1 million was a reasonable threshold and it should be maintained in final reporting requirements in order to relieve some of the burden associated with the rule. Another comment related to the threshold suggested that the threshold should balance the data aggregation costs with the resulting benefits of providing the data to the public. One respondent suggested that the contractor should not have to report to the public because there are sufficient Government agencies that already monitor contractor performance and, therefore, a public database would not be necessary. One respondent requested that the rule be clarified to require reporting at the task order level, as reporting the required information at the onset of the contract (IDIQ or requirements contracts) would not accomplish the goal of FFATA. No other comments were received regarding the proposed pilot program. Five respondents submitted comments regarding the impact and burden of FFATA final reporting requirements on small business indicating that the burden on small businesses would be particularly heavy.

Response: The FFATA of 2006 mandates the existence and operation of a single searchable website, accessible by the public to require full disclosure of all transactions of $25,000 or more involving Federal funds. The Councils must comply with the statute when the final reporting requirements are established. The definition of ''subcontract'' in FAR clause 52.204–10 refers to the definition of ''contract'' which would include all types of commitments that obligate the Government to an expenditure of appropriated funds, including task orders. According to the FFATA data definitions, available at the FFATA reporting website, ''award amount'' is defined as the amount of support provided in the award, based on obligations. The contractor should report a subcontract when the money is obligated. If obligation happens at the time the IDIQ is awarded then the contractor would report the amount of the award in the FFATA database at the time of the IDIQ award. If money is obligated at the time each task/delivery order is issued, then the contractor would report the amount of the award in the FFATA database at the time of award of the order. In addition, the clause provides a definition of ''subcontract,'' which is based on the FAR definition at 2.1, and includes bilateral contract modifications. If additional money is obligated by a bilateral subcontract modification, then that amount must also be reported in the FFATA database as a separate record. The pilot program will not allow the modification of an existing record, but the respondents recommendation will be considered when establishing the final requirements. The comments regarding small business are addressed in paragraph B, Regulatory Flexibility Act, of this notice.

2. *Duplicate Collection Requirement*. Five comments were received regarding the existence of current databases that would be viewed as providing sufficient information to comply with the law. The existing databases or system of collecting subcontract information include the Federal Procurement Data System (FPDS), the Electronic Subcontracting Reporting System, small business subcontracting plans, and IRS Form 1099. It was also suggested that the Councils consider coordinating with other unspecified financial mechanisms that are currently under development.

Response: The Councils agree that information contained in existing data collection systems/databases should be utilized as much as possible to fulfill the requirements of FFATA. However, required subcontract information is not available from existing Federal systems/databases. Therefore, a certain amount of data must be provided by the contractor through a single searchable website as prescribed by Section 2(b)(1) of FFATA. Accordingly, the final rule remains unchanged.

3. *Verification and Validation of Data in the FFATA Database*. Three respondents question the usefulness of a system that the Government cannot validate. Four comments were received suggesting that the Government needs to establish a means of ensuring compliance and accuracy of the data available in the FFATA database.

Response: While the Government does not have a mechanism to verify or validate subcontract data input by a

contractor, the Government will use routine contract administration oversight to ensure contractor compliance with the FAR clause at 52.204–10, Reporting Subcontract Awards. The final rule therefore remains unchanged.

4. *Reporting Period*. Six comments were received requesting clarification of the reporting requirements for the pilot program and suggesting alternative timeframes for reporting data. Clarification was requested regarding reporting of the initial award of a subcontract and subsequent extensions in the period of performance or an exercise of an option for the same subcontract. It was suggested that the FFATA database allow for updates of existing records. One respondent believes that quarterly reporting would be burdensome. Another respondent suggested changing the reporting requirement to 90 days after subcontract award.

Response: The reporting periods for the pilot program are sufficient to allow contractors to successfully report subcontract awards. The suggestion to have the FFATA database allow for updates of existing records, including the suggestion to tie the reporting periods to the period of performance, will be given consideration when the final reporting requirements are established.

5. *Security Issues*. Nine comments were received expressing concerns about industrial, national, and other security issues. Since the database will be public, anyone, including terrorists, will have access to the information. Providing names and addresses of contractors/subcontractors in a public database creates unnecessary risks in a national, operational, and human security sense and will undermine the Government mission and national security. It was suggested that reporting requirements exclude any item constituting a weapon system or components thereof and any item subject to the International Traffic in Arms Regulation. One respondent believes that security will not be compromised because the requirement clearly exempts classified solicitations and contracts.

Response: FFATA mandates the existence and operation of a single searchable website, accessible by the public to require full disclosure of transactions of $25,000 or more involving Federal funds. The specific data elements, including names and addresses, are required for each Federal award, including subcontracts. However, Section 3 of FFATA stipulates that the Act does not require disclosure of classified information, and the FAR rule exempts classified contracts that may be applicable to industrial, national, and other security issues, and the pilot database only applies to prime contracts awarded and performed in the United States. Accordingly, the Councils have determined that no change is necessary.

6. *Competition*. Eleven respondents expressed concerns regarding competition. In general, disclosure of information will provide unwarranted competitive advantages to competitors. Comments received stated that the name and location of subcontractors is considered confidential proprietary business information and should not be provided to the public. Longstanding laws (e.g., Freedom of Information Act (FOIA) and Trade Secrets Act) are designed to protect contractors' and subcontractors' confidential and proprietary business information. Courts have interpreted Exemption 4 of FOIA to preclude the disclosure of certain contractor pricing information, finding that the release of pricing information, particularly line item prices and option year prices, may result in substantial competitive harm to a contractor. The FFATA database will provide competitors with source and price information that could be used to develop procurement strategies that undermine future business. In addition, posting pilot program information goes beyond the requirements of FFATA and could present serious risks to both contractors and subcontractors (*e.g.*, competitors may gain insight into a contractor's team partners). It is believed that the public will misunderstand the basis of awards (*e.g.*, a contract awarded on a basis other than lowest price). One respondent believes that the rule went beyond the FFATA requirements and suggests that the Councils work with the Office of Management and Budget (OMB) to establish the pilot program. One respondent believes that FFATA infringes on important commercial business practices, making it difficult to continue beneficial relationships that serve both commercial and Government customers.

Response: FFATA requires the existence and operation of a single searchable website, accessible by the public that includes specific information for Federal awards. The Councils must comply with the requirements of the law when the final reporting requirements are established. Under 41 U.S.C. 405 and 421, the Office of Federal Procurement Policy at OMB oversees the issuance of the FAR. OMB approves all FAR rules before publication, including this final rule and its proposed rule. The information reported under the pilot program will not be disclosed to the public.

7. *Applicability*. Six comments were received regarding applicability of the rule. Some required clarification of applicability and others suggested changes in the application of the rule.

Clarification was requested as to whether the reference to the term ''contract number'' in the FAR clause at 52.204–10 applied to the prime contract number or subcontract number/purchase order number, and whether ''subcontractor location including address'' applied to the billing address of the subcontractor. It was also requested that clarification be provided regarding the assumption that a contract was classified when it contained a Department of Defense, Contract Security Classification Specification (DD Form 254).

Certain respondents strongly suggested that final reporting requirements be limited to first tier subcontracts because no privity of contract relationship exists between subcontractors and the Government, while a single respondent believed that the requirement to report all subcontracts, regardless of tier, was reasonable and would ensure consistency in reporting and maximize visibility into Federal spending. In addition, two respondents indicated that the final reporting requirements should not apply to commercial contractors because it will be excessively burdensome for them to identify and report on Government contracts and items purchased as company inventory should not be reportable. Concerns that commercial subcontractors might have their subcontract prices and other sensitive information disclosed on a public website raises concerns regarding the Federal Acquisition Streamlining Act of 1994 (FASA). FASA generally exempts laws from applying to commercial item subcontracts unless the statute specifically refers to that section. The respondent further stated that the final reporting requirements should not apply to contracts awarded or performed outside the United States. Extending the reporting requirements to contracts awarded or performed outside the United States will stretch the resources of an already overtaxed acquisition workforce in foreign countries. In addition, certain foreign countries may prohibit release of financial information outside the country. One respondent suggested that a limited set of data should be reported for sensitive but unclassified contracts (*e.g.*, do not

include the place of performance location).

Response: Regarding clarifications of applicability, the reference to ''contract number'' in FAR 52.204–10 refers to the prime contract number or purchase order number assigned by the Government, consistent with the FAR convention of all references to ''contractor'' meaning the recipient of a Government contract. The subcontractor location including address refers to the principal business location of the subcontractor receiving the award. The Councils expect the FFATA database to include helpful information regarding field definitions. The DD Form 254 is the basic document for conveying to contractors the applicable classified areas of information involved in a classified effort. The classification may be related to various attachments or supplement documents or a facility and would be identified in the body of the DD Form 254. The rule does not apply to classified contracts.

The FAR clause at 52.204–10 does not require reporting of subcontract awards below the first tier. In addition, the clause is not required in solicitations and contracts for commercial items issued under FAR Part 12. However, comments received regarding the applicability to commercial contractors and to contracts awarded or performed outside the United States will be considered in formation of the final requirements. Therefore, the final rule remains unchanged.

8. *Unique Identifier for Subcontractors.* Eight comments were received regarding whether the unique subcontractor identifier should be the ''data universal numbering system (DUNS'') number, the Taxpayer Identification Number (TIN), some other number, or a non-numerical unique identifier. One respondent requested clarification as to whether the unique identifier was the prime contract number. Six respondents favored the DUNS number because it is well-established as the unique identifier for tracking Federal prime contractors. Since many subcontractors are also prime contractors on other contracts, using the DUNS number would eliminate any confusion regarding what role they are playing, prime or subcontractor. Two respondents favored the use of the TIN as a unique identifier because subcontractors are not required to obtain a DUNS number. There are limited controls on the issuance of DUNS numbers and therefore they are considered to be less reliable than the TIN.

Response: Use of the DUNS number is expected to be the most cost-effective identifier for reporting awards in the FFATA database. It is the common identifier used in most Federal systems/databases to identify contractors. Any contractor or subcontractor needing to obtain a DUNS number may do so by visiting *www.dnb.com/us.* For the Pilot Program, the unique identifier for the subcontractor will be defined in the FFATA pilot database. Therefore, the final rule remains unchanged.

9. *Definition of Subcontract.* One comment was received stating that the proposed definition of ''subcontract'' (see FAR clause 52.204–10) would lead to confusion over which business entity is entering into the subcontract. The respondent suggested that the definition be revised to be more closely aligned to the definition found at FAR 44.101.

Response: The definition at FAR clause 52.204–10 was adapted from the FAR 44.101 definition of ''subcontract'' and means ''* * * any contract entered into by the Contractor to furnish supplies or services for performance of this contract * * *.'' The definition is clear and, therefore, remains unchanged in the final rule.

10. *Conflict with DFARS 252.204–7000, Disclosure of Information.* Two comments were received regarding the apparent conflict of FFATA with Defense Federal Acquisition Regulation Supplement (DFARS) Clause 252.204–7000, Disclosure of Information. The DFARS clause prohibits the disclosure of any part of the contract unless the contracting officer provides written approval. Clarification is requested as to whether the FFATA clause supersedes DFARS 252.204–7000.

Response: This comment is outside the scope of this FAR rule.

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

B. Regulatory Flexibility Act

DoD, GSA, and NASA certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the contract dollar threshold for the application of the pilot program is $500 million. The number of small businesses receiving such large prime contract awards is estimated to be miniscule to none.

Comments were received regarding the impact of FFATA final reporting requirements on small business. One respondent stated that historically, small businesses have not been required to track subcontract awards by contract and implementing the final reporting requirements of FFATA would mean that they would need to develop a tracking system. A respondent stated that FFATA would increase costs associated with hiring resources to track and input data. In addition, another respondent stated that many small businesses may not be familiar with regulations and laws related to subcontract reporting.

The public comments and results of the pilot program will be considered when the final reporting requirements are established, with a goal of minimizing burdens imposed on small businesses.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) applies because the final rule contains information collection requirements. Accordingly, the FAR Secretariat has forwarded a request for approval of a new information collection requirement concerning OMB Control Number 9000–00XX, FFATA Reporting Requirement of Subcontractor Award Data, to OMB under 44 U.S.C. 3501, *et seq.* Public comments concerning this request will be invited through a subsequent **Federal Register** notice.

List of Subjects in 48 CFR Parts 4, 12, and 52

Government procurement.

Dated: August 29, 2007.

Al Matera,

Director, Office of Acquisition Policy.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 4, 12, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 4, 12, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 4—ADMINISTRATIVE MATTERS

■ 2. Add subpart 4.14 to read as follows:

Subpart 4.14—Reporting Subcontract Awards

4.1400 Scope of subpart.

This subpart implements section 2(d) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109–282) by establishing a pilot program for a single searchable website, which will eventually be available to the public at no charge, that includes information on Federal subcontracts. This pilot program will expire not later than January 1, 2009. Information

reported under the pilot program will not be disclosed to the public.

4.1401 Contract clause.

(a) Except as provided in paragraph (b) of this section, insert the clause at 52.204–10, Reporting Subcontract Awards, in all solicitations and contracts with values of $500,000,000 or more when the contract will be awarded and performed in the United States.

(b) The clause is not required in—

(1) Solicitations and contracts for commercial items issued under FAR Part 12; or

(2) Classified solicitations and contracts.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

■ 3. Amend section 12.503 by adding new paragraph (a)(6) to read as follows:

12.503 Applicability of certain laws to Executive agency contracts for the acquisition of commercial services.

(a) * * *

(6) 31 U.S.C. 6101 note, Pub. L. 109–282, Federal Funding Accountability and Transparency Act of 2006, requirement to report subcontract data.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Add section 52.204–10 to read as follows:

52.204–10 Reporting Subcontract Awards.

As prescribed in 4.1401(a), insert the following clause:

REPORTING SUBCONTRACT AWARDS (SEP 2007)

(a) *Definition. Subcontract*, as used in this clause, means any contract as defined in FAR Subpart 2.1 entered into by the Contractor to furnish supplies or services for performance of this contract. It includes, but is not limited to, purchase orders and changes and modifications to purchase orders, but does not include contracts that provide supplies or services benefiting two or more contracts.

(b) Section 2(d) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109–282) requires establishment of a pilot program for a single searchable website, available to the public at no charge that includes information on Federal subcontracts.

(c) Within thirty days after the end of March, June, September, and December of each year through 2008, the Contractor shall report the following information at *www.esrs.gov* for each subcontract award with a value greater than $1 million made during that quarter. (The Contractor shall follow the instructions at *www.esrs.gov* to report the data.)

(1) Name of the subcontractor.

(2) Amount of the award.

(3) Date of award.

(4) The applicable North American Industry Classification System code.

(5) Funding agency or agencies.

(6) Award title descriptive of the purpose of the action.

(7) Contract number.

(8) Subcontractor location including address.

(9) Subcontract primary performance location including address.

(10) Unique identifier for the subcontractor.

(End of clause)

[FR Doc. 07–4336 Filed 9–5–07; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR—2007—002; Sequence 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–20; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration. This Small Entity Compliance Guide has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2005–20 which amends the FAR. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2005–20 which precedes this document. These documents are also available via the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Laurieann Duarte, FAR Secretariat, (202) 501–4755. For clarification of content, contact the analyst whose name appears in the table below.

RULE LISTED IN FAC 2005–20

Subject	FAR case	Analyst
Federal Funding Accountability and Transparency Act (FFATA) - Reporting Requirement of Subcontractor Award Data	2006–029	Woodson.

SUPPLEMENTARY INFORMATION: A summary of the FAR rule follows. For the actual revisions and/or amendments to this FAR case, refer to FAR Case 2006–029.

FAC 2005–20 amends the FAR as specified below:

Federal Funding Accountability and Transparency Act (FFATA) - Reporting Requirement of Subcontractor Award Data (FAR Case 2006–029)

This final rule amends the Federal Acquisition Regulation (FAR) to require that contractors report specific subcontract awards to a public database. The Federal Funding Accountability and Transparency Act of 2006 (FFATA) (Pub. L. 109–282) requires the existence and operation of a searchable website that provides public access to information about Federal expenditures. This final rule establishes a pilot program to test the collection and accession of subcontract award data. As a result, subcontracts awarded and funded with Federal appropriated funds will eventually be disclosed to the public in a single searchable website. However, information reported under the pilot program will not be disclosed to the public.

Dated: August 29, 2007.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. 07–4337 Filed 9–5–07; 8:45 am]

BILLING CODE 6820–EP–S

Federal Register

Thursday,
September 6, 2007

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 33

Airworthiness Standards; Aircraft Engine Standards for Pressurized Engine Static Parts; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. 2007–28501; Notice No. 07–08]

RIN 2120–AJ05

Airworthiness Standards; Aircraft Engine Standards for Pressurized Engine Static Parts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA is proposing to amend the aircraft engine type certification standards by adding standards for pressurized engine static parts that are equivalent to those already adopted by European Aviation Safety Agency (EASA). The proposed rule would establish uniform standards for the certification of these parts in the United States and in Europe. U.S. manufacturers already meet the EASA requirements.

DATES: Comments to be submitted on or before December 5, 2007.

ADDRESSES: You may send comments, identified by Docket No. FAA–2007–28501, using any of the following methods:

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 1–202–493–2251.
- *Hand Delivery:* Take comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information that you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://dms.dot.gov* at any time or, to Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tim Mouzakis, Federal Aviation Administration, Engine and Propeller Directorate Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; telephone: (781) 238–7114; facsimile: (781) 238–7199; e-mail: *timoleon.mouzakis@faa.gov.*

SUPPLEMENTARY INFORMATION: Later in this preamble, under the Additional Information section, we discuss how you can comment on this proposal and how we will handle your comments. Included in this discussion is related information about the docket, privacy, and the handling of proprietary or confidential business information. We also discuss how you can get a copy of this proposal and related rulemaking documents.

Authority for This Rulemaking

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General Requirements.'' Under that section, the FAA is charged with prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce, including minimum safety standards for aircraft engines. This regulation is within the scope of that authority because it updates the existing regulations for aircraft engine static parts.

Background

Part 33 of Title 14 of the Code of Federal Regulations (14 CFR Part 33) prescribes airworthiness standards for original and amended type certificates for aircraft engines certificated in the United States. The Certification Specifications for Engines (CS–E) prescribe corresponding airworthiness standards for aircraft engine certification in Europe by the European Aviation Safety Agency (EASA). While part 33 and the European regulations are similar, they differ in several respects. For applicants seeking certification under both part 33 and CS–E, these differences can result in additional costs and delays.

In 1989, the FAA met with the European Joint Aviation Authorities and U.S. and European aviation industry representatives to commence rulemaking to harmonize U.S. and European certification standards. Transport Canada subsequently joined this effort. The FAA tasked the Aviation Rulemaking Advisory Committee (ARAC) [i] through its Engine Harmonization Working Group to review existing regulations and recommend changes that would eliminate differences in U.S. and European engine certification standards for pressurized engine static parts. This proposed rule is based on ARAC's recommendations to the FAA.

General Discussion of the Proposal

Typically, pressurized engine static parts are external engine cases or pressure vessels that operate at significant pressures. They include, but are not limited to: Compressor, combustion, diffuser, and turbine cases; heat exchangers; bleed valve solenoids; starter motors; and fuel, oil and hydraulic system components. FAA regulations do not contain explicit standards for these parts.

Engine case ruptures continue to contribute to propulsion risk. Data from the Continued Airworthiness Assessment Methodologies (CAAM) indicates that case ruptures were the 10th leading cause of CAAM level 3 or 4 events [ii] from 1982 to 1996 and represent a significant hazard to airplanes certificated under part 25. The proposed rule would establish explicit structural integrity requirements for engine static parts that may result in a reduction in burst events of pressurized cases in future certificated engines.

U.S. aircraft engine manufacturers who meet the European certification requirements already comply with the intent of this proposed regulation, since EASA's requirements contain these

[i] Published in the **Federal Register** on October 20, 1998 (63 FR 56059). See Task 13: Fatigue Pressure Test/Analysis.

[ii] Level 3 events involve serious consequences that cause substantial damage to the aircraft or to a second, unrelated system. Level 4 events involve severe consequences including either forced landing, loss of aircraft, or serious injuries to passengers.

proposed standards. This proposed rule would establish similar certification standards in the United States and in Europe with respect to pressurized parts/cases designed to contain pressurized gases or liquids.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. We reviewed the corresponding ICAO Standards and Recommended Practices and identified no differences with these proposed regulations.

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more, in any one year (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this proposed rule. The reasoning for this determination follows:

This proposed rule:

- Would use European certification requirements, CS–E 640, as the basis for the proposed § 33.64.
- Would update the federal aviation regulations to reflect current industry standards.
- Would not result in incremental costs.
- May reduce existing certification costs.

Presently, engine manufacturers must demonstrate compliance with both part 33 and European certification standards to market turbine engines in both the United States and Europe. Meeting two sets of certification requirements raises the cost of developing a new turbine engine.

EASA has adopted this proposed standard as CS–E 640 Pressure Loads. This proposed rule would add the provisions of CS–E 640 Pressure Loads to part 33 as a new § 33.64, Pressurized engine static parts, under Subpart E—Design and Construction; Turbine Aircraft Engines. We have concluded, for the reasons discussed above, that adoption of this proposed rule, consistent with the EASA standards, into part 33 would be the most efficient way to enhance safety.

We estimate that no incremental costs are associated with this proposal. Our review of turbine aircraft engine manufacturers revealed that they currently design their engines to meet the standards of CS–E 640 Pressure Loads. Since our proposed rule would adopt this standard, manufacturers would incur no additional costs resulting from this proposal, if adopted as a final rule.

By creating common part 33 and EASA requirements, turbine engine manufacturers would only need to design to one certification standard. We did not attempt to quantify the cost savings from this specific proposal, but note that harmonization in this area would contribute to the overall savings that certification to one standard provides. We have also concluded that further analysis is not required because turbine engine manufacturers are already designing to the CS–E 640 Pressure Loads standard that this document proposes.

This expected outcome of this proposal would be a minimal impact with positive net benefits. Therefore, a complete regulatory evaluation was not prepared. The FAA requests comments with supporting justification about the FAA determination of minimal impact.

In view of the above, we determined that this proposed rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

We believe that this proposed rule would not have a significant economic impact on a substantial number of small entities. We identified six companies that produce civil turbine aircraft engines in the United States. Only one, Williams International, is a small entity. The other five U.S. turbine aircraft engine manufacturers exceed the Small Business Administration small entity criteria of 1,000 employees for North American Industrial Classification 2002

(NAICS 2002)—No. 336412, Aircraft Engine and Engine Parts Manufacturing. See the following table.

U.S. CIVIL AIRCRAFT TURBINE ENGINE MANUFACTURERS AND NUMBER OF EMPLOYEES

Number	Manufacturer	Parent company	Number of employees
1	GE Aviation Commercial Engines.	General Electric Co	316,000 (Dec. 31, 2005) Source: *www.Hoovers.com.* Accessed: Feb. 12, 2007.
2	Honeywell Aerospace	Honeywell International Inc	116,000 (Dec. 31, 2005) Source: *www.Hoovers.com.* Accessed: Feb. 12, 2007.
3	International Aero Engines (IAE).	Consortium, incorporated in Switzerland. Owned by: Pratt & Whitney; Rolls-Royce; Japanese Aero Engines Corporation; & MTU Aero Engines.	> 1,000, Pratt & Whitney and Rolls-Royce both employ more than 1,000 people. Therefore, IAE is not a small entity.
4	Pratt & Whitney	United Technologies Corporation	222,200 (Dec. 31, 2005) Source: *www.Hoovers.com.* Accessed: Feb. 12, 2007.
5	Rolls-Royce North America.	Rolls-Royce Group plc	35,600 (Average Weekly, 2005) Source: *www.Hoovers.com.* Accessed: Feb. 12, 2007.
6	Williams Intl		600 (Dec. 31, 2004) Source: *www.Gale.com.* Accessed: Feb. 13, 2007.

We expect the proposed rule to have, at most, a minor effect on the existing U.S. manufacturers because they are already meeting the proposed rule's requirements.

Therefore the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments regarding this determination.

Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and has determined that it is in accord with the Trade Agreements Act as the proposed rule uses European standards as the basis for U.S. regulations.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $128.1 million in lieu of $100 million.

This proposed rule does not contain such a mandate.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action 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. Therefore, we determined that this notice of proposed rulemaking would not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in Chapter 3, paragraph 312d and involves no extraordinary circumstances.

Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Additional Information

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. 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 preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

1. Searching the Department of Transportation's electronic Docket Management System (DMS) web page (*http://dms.dot.gov/search*):

2. Visiting the Office of Rulemaking's web page at *http://www.faa.gov/avr/arm/index.cfm*; or

3. Accessing the Government Printing Office's web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html*.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking,

ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

List of Subjects in 14 CFR Part 33

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 33 of Title 14 Code of Federal Regulations (14 CFR part 33) as follows:

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

1. The authority citation for part 33 continues to read as follows:

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

2. Add § 33.64 to Subpart E to read as follows:

§ 33.64 Pressurized engine static parts.

(a) Strength. The applicant must establish by test, validated analysis, or a combination of both, that all static parts subject to significant gas or liquid pressure loads for a stabilized period of one minute will not:

(1) Exhibit permanent distortion beyond serviceable limits or exhibit leakage that could create a hazardous condition when subjected to the greater of the following pressures:

(i) 1.1 times the maximum working pressure;

(ii) 1.33 times the normal working pressure; or

(iii) 35 kPa (5 PSI) above the normal working pressure.

(2) Exhibit fracture or burst when subjected to the greater of the following pressures:

(i) 1.15 times the maximum possible pressure;

(ii) 1.5 times the maximum working pressure; or

(iii) 35 kPa (5 PSI) above the maximum possible pressure.

(b) Compliance with this section must take into account:

(i) The operating temperature of the part;

(ii) Any other significant static loads in addition to pressure loads;

(iii) Minimum properties representative of both the material and the processes used in the construction of the part; and

(iv) Any adverse geometry conditions allowed by the type design.

Issued in Washington, DC, on August 30, 2007.

John J. Hickey,

Director, Aircraft Certification Service.

[FR Doc. E7–17626 Filed 9–5–07; 8:45 am]

BILLING CODE 4910–13–P

Federal Register

Thursday,
September 6, 2007

Part IV

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 49 and 75
Mine Rescue Teams and Equipment; Proposed Rules

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 49 and 75

RIN 1219–AB53

Mine Rescue Teams

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; notice of public hearings; close of comment period.

SUMMARY: The proposed rule would revise MSHA's existing standards for mine rescue teams for underground coal mines. It would strengthen training requirements and address composition, availability, and certification requirements for coal mine rescue teams. This proposed rule would implement the provisions of the Mine Improvement and New Emergency Response Act of 2006 (MINER Act) to improve overall mine rescue service; improve mine emergency response time; improve mine rescue team effectiveness; and increase the quantity and quality of mine rescue team training.

DATES: All comments must be sent on or before November 9, 2007. MSHA will hold four public hearings on October 23, October 25, October 30, and November 1, 2007. Details about the public hearings are in the ''Supplementary Information'' section of this document.

ADDRESSES: Comments must be clearly identified with ''RIN 1219–AB53'' and may be sent to MSHA by any of the following methods:

(1) *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

(2) *Electronic mail: zzMSHA-comments@dol.gov.* Include ''RIN 1219–AB53'' in the subject line of the message.

(3) *Facsimile:* 202–693–9441. Include ''RIN 1219–AB53'' in the subject line of the message.

(4) *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939.

(5) *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Stop at the 21st floor to sign in at the receptionist's desk and wait for an escort.

Information Collection Requirements: Comments concerning the information collection requirements of this proposed rule must be clearly identified with ''RIN 1219–AB53'' and sent to both the Office of Management and Budget (OMB) and MSHA. Comments to OMB may be sent by mail addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for MSHA.

Docket: Comments can be accessed electronically at *http://www.msha.gov* under the *Rules and Regs* link. MSHA will post all comments on the Internet without change, including any personal information provided. Comments may also be reviewed at the Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Stop at the 21st floor to sign in at the receptionist's desk and wait for an escort.

Mailing List: MSHA maintains a list that enables subscribers to receive e-mail notification when rulemaking documents are published in the **Federal Register**. To subscribe, go to *http://www.msha.gov* under the *Mailing List* link.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, at *silvey.patricia@dol.gov* (internet e-mail), 202–693–9440 (voice), or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

Outline of the Preamble

This outline will assist the mining community in finding information in this preamble.

I. Introduction.
II. Statutory and Rulemaking Background.
III. Section-by-Section Analysis.
  A. Technical Amendments to Existing Standards.
  B. Subpart B—Mine Rescue Teams for Underground Coal Mines; Amendments to Existing Requirements.
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IV. Regulatory Economic Analysis.
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  A. The Unfunded Mandates Reform Act of 1995.
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  D. Executive Order 12988: Civil Justice Reform.
  E. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks.
  F. Executive Order 13132: Federalism.
  G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments.
  H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

I. Introduction

The Mine Improvement and New Emergency Response Act of 2006 became effective on June 15, 2006 (MINER Act). The goal of the MINER Act is ''to improve the safety of mines and mining.'' To accomplish this goal, the MINER Act includes provisions to improve mine emergency response time, improve mine rescue team effectiveness, and increase the quantity and quality of mine rescue team training.

Section 4 of the MINER Act requires MSHA to publish regulations on mine rescue teams by December 2007. Because the mine rescue team provisions contained in section 4 of the MINER Act apply only to underground coal mines, this proposed rule would affect those mines and the mine rescue teams that cover them.

Public Hearings

MSHA will hold four public hearings concerning the proposed rule. The hearings will be held as follows:

Date	Location	Contact
October 23, 2007, 9 a.m. to 1 p.m.	Little America Hotel, 500 South Main Street, Salt Lake City, UT 84101	801–596–5700
October 25, 2007, 9 a.m. to 1 p.m.	Four Points by Sheraton Lexington, 1938 Stanton Way, Lexington, KY 40511	859–259–1311
October 30, 2007, 9 a.m. to 1 p.m.	Charleston Civic Center, West Virginia Room 105, 200 Civic Center Drive, Charleston, WV 25301.	304–345–1500
November 1, 2007, 9 a.m. to 1 p.m.	Sheraton Birmingham Hotel, 2101 Richard Arrington Boulevard, North Birmingham, AL 35203.	205–324–5000

The hearings will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations to the hearing panel. Requests to speak at a hearing should be made at least 5 days prior to the hearing date. Requests to speak may be made by telephone (202–693–9440), facsimile (202–693–9441), or mail (MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939). Any unallocated time at the end of each hearing will be made available to persons making same-day requests to speak.

The presiding official may limit presentations and exclude irrelevant or unduly repetitious material and questions to ensure the orderly progress of the hearings. The hearing panelists may ask questions of speakers. Speakers and other attendees may present written information to the MSHA panel for inclusion in the rulemaking record. MSHA will accept post-hearing written comments and data for the record from any interested party, including those not presenting oral statements, until the close of the comment period on November 9, 2007.

The hearings will be conducted in an informal manner. Formal rules of evidence and cross examination will not apply. MSHA will make transcripts of the hearings, post them on MSHA's Web site *http://www.msha.gov,* and include them in the rulemaking record.

II. Statutory and Rulemaking Background

In accordance with section 115(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act), MSHA issued standards in 30 CFR part 49 for mine rescue teams in underground coal and metal and nonmetal mines (45 FR 47002, July 11, 1980). Part 49 contains requirements addressing the three essential elements of effective mine rescue teams: (1) Ready availability; (2) proper equipment; and (3) basic levels of skills and training.

After several underground coal mine disasters in 2006, Congress passed and the President signed the MINER Act. Section 4 of the MINER Act requires that the Secretary issue regulations for mine rescue teams by December 2007. The MINER Act also requires that any new standards not waive training requirements for existing teams.

III. Section-by-Section Analysis

The MINER Act requires underground coal mine operators to use mine rescue teams that meet specific requirements for certification, composition, availability, and training. As specified by the MINER Act, MSHA is proposing additional standards for mine rescue teams for underground coal mines.

A. Technical Amendments to Existing Standards

This proposed rule would make no substantive change to requirements for mine rescue teams at underground metal and nonmetal mines. MSHA is proposing the following non-substantive organizational changes to the existing standards.

- For clarity, MSHA proposes to add a heading designating the existing standards as *Subpart—A—Mine Rescue Teams for Underground Metal and Nonmetal Mines.* This proposed rule would make no changes to §§ —49.1 through 49.9.
- MSHA proposes to delete *§ 49.10 Effective date.* The effective date language is obsolete.

B. Subpart B—Mine Rescue Teams for Underground Coal Mines; Amendments to Existing Requirements

MSHA is proposing a new subpart B that would contain all the standards applicable to mine rescue teams for underground coal mines. Subpart B would contain the existing requirements renumbered as §§ 49.11 through 49.19, with modifications to achieve the goals of the MINER Act and to address the unique conditions present in anthracite coal mines. The proposal reserves § 49.14 because it is not applicable to underground coal mines.

In addition, to address the new MINER Act provisions, subpart B contains the following five new standards:

§ 49.20 Requirements for all coal mines.
§ 49.30 Requirements for small coal mines.
§ 49.40 Requirements for large coal mines.
§ 49.50 Certification of coal mine rescue teams.
§ 49.60 Requirements for local mine rescue contests.

1. New Subpart B and the Reorganization of Part 49

MSHA requests comments on the proposed re-organizational change to 30 CFR part 49. MSHA specifically solicits comments on the approach taken in this proposal, that is, retaining all existing standards as a separate subpart A applicable to underground metal and nonmetal mines and creating a new separate subpart B containing existing standards and proposed new MINER Act provisions for underground coal mines. The Agency also is considering an alternative that would retain the existing standards in subpart A, applicable to all underground mines, and add a new subpart B, applicable only to underground coal mines, to address MINER Act requirements.

MSHA also is requesting comments on whether this proposed rule will result in different approaches to providing mine rescue services and, if so, what those approaches would be. The Agency believes that the new requirements in the MINER Act might result in providers of mine rescue services seeking alternative methods of providing these services. This issue will be discussed in more detail later in the preamble.

2. Section 49.11 Purpose and Scope

MSHA proposes to add the phrase, ''as amended by the Mine Improvement and New Emergency Response Act of 2006,'' to update *§ 49.11 Purpose and scope.* This change is a technical amendment. The proposed rule also would number the existing paragraph (a) and add a new paragraph (b). Paragraph (b) would contain a table to provide mine operators a quick visual summary of their new compliance obligations under the MINER Act. As noted in the table (Table 49.11):

> Team members of State-sponsored teams who are full-time State employees whose primary job duties include (1) inspecting underground mines for compliance with State safety laws or (2) training mine rescue teams or (3) conducting mine safety training or (4) other similar duties that would enhance their mine rescue knowledge may substitute their regular job experience for 50 percent of the training requirements (annual training which includes mine rescue contests and mine-site training) for non-State employee mine rescue team members.

MSHA requests comments on this provision, particularly on allowing experience to substitute for 50 percent of the training requirements.

3. Section 49.12(b) Alternative Composition Requirements for Mine Rescue Teams for Anthracite Coal Mines

Existing § 49.2(b) requires mine rescue teams to have five members and one alternate. MSHA is proposing this requirement for underground coal mines as § 49.12(b) and would add a provision specifically to address underground anthracite coal mines that have no electrical equipment at the face or working section.

Because mining methods and conditions in underground anthracite coal mines are unique, anthracite mine operators have been granted petitions for modification under section 101(c) of the Mine Act allowing mine rescue teams covering these mines to be

comprised of three members each and one alternate team member to serve both teams. In support of these petitions, anthracite mine operators cited the following:

- Most anthracite mines are not highly mechanized. Production and maintenance work is done largely by hand, using simple hand tools and equipment. Anthracite mines may have no underground electric power or may have power only at the bottom of the hoist slope.
- Typically, extraction occurs in a single face or production area. Many anthracite mines are developed only short distances underground, rarely more than several thousand feet.
- Anthracite seams dip steeply and are often near vertical. Openings are narrow and constricted. Access between levels is by means of hardwood ladders through small, steeply pitched openings.
- The hoist bucket, used to transport personnel, typically can accommodate no more than four persons.
- Rock dusting is not required because of the extremely low combustibility of anthracite coal, caused by its low volatile content.
- The average underground anthracite mine employs four miners.
- In the past 20 years, no more than one mine rescue team has been needed in the anthracite region for rescue and recovery activities. Further, no more than three rescue team members have entered a working place at the same time during such activities.

In accordance with section 101(c) of the Mine Act, MSHA investigated each petition of § 49.2(b) from these small, underground anthracite coal mines and made the following finding:

> Considering this confirmation and the narrow width and constricted openings, the limited capacity of hoist conveyances, the pitched seam, the short travel distance from the slope bottom to the working face, and the low combustibility of anthracite coal, petitioner's alternative method of two mine rescue teams with three members each is as safe as maintaining two teams of five members. As such, it achieves the result of the standard to ensure the availability of mine rescue capability for purposes of emergency rescue and recovery.

On the basis of the petitions and the findings of its investigations, MSHA granted 22 petitions for modification of § 49.2(b) that allow anthracite coal mines to operate under the approved alternate method. Currently, 10 underground anthracite coal mines operate under this approved alternative method.

The proposed rule would allow anthracite coal mines, which have no electrical equipment at the face or working section, to have two mine rescue teams consisting of at least three members per team and one alternate shared between both teams. This proposed provision is consistent with the action taken in existing petitions for modification.

4. Section 49.12(c) Alternative Experience Requirement for Members of Contract Mine Rescue Teams

Existing § 49.2(c) requires mine rescue team members to have been employed in an underground mine for at least 1 year within the past 5 years. MSHA is proposing this requirement for underground coal mines as § 49.12(c) and would add a provision specifically to implement the requirement in the MINER Act for members of contract mine rescue teams. The MINER Act requires that members of contract mine rescue teams have ''a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.''

The proposed rule would retain the existing provision that, for the purpose of mine rescue work only, miners who are employed on the surface but work regularly underground can use that time to meet the experience requirement. MSHA also would waive the underground experience requirement for those miners on a mine rescue team on the effective date of the rule.

5. Section 49.12(f) Available Within 1 Hour Ground Travel Time From the Mine Rescue Station

Existing § 49.2(f) requires that no mine served by a mine rescue team shall be located more than 2 hours ground travel time from the mine rescue station with which the rescue team is associated. MSHA is proposing this requirement for underground coal mines as § 49.12(f). Proposed § 49.12(f) revises existing § 49.2(f) to include the MINER Act requirement that the mine rescue team be available at the underground coal mine within 1 hour ground travel time from the mine rescue station. This change from 2 hours to 1 hour ground travel time between the mine and its mine rescue station is intended to ensure that a team will arrive at the mine more quickly in case of a mine emergency.

MSHA projects that the availability of a team within 1 hour ground travel time from the station to the covered mine would result in the establishment of 28 additional mine rescue stations. This estimate is based on the general locations of mines and mine rescue stations, without consideration of road or traffic conditions, and the experience and expertise of MSHA's technical staff in the Office of Coal Mine Safety and Health. The Agency solicits comment on whether some existing stations may need to be moved to meet this requirement. MSHA also solicits comment on whether mine operators will encounter any difficulties in meeting the requirements of the proposal. MSHA specifically requests information, from members of the mining community affected by this provision, on the number of additional mine rescue teams and stations that would be needed to comply with this new requirement. MSHA is particularly interested in: (1) How compliance would be achieved; (2) location of new rescue stations; (3) make-up and composition of new teams; and (4) any other information that might be useful. MSHA is also interested in feasibility information, including economic feasibility. The Agency requests that commenters include specific information, such as cost or technical capability, in support of their positions.

6. Section 49.13 Alternative Mine Rescue Capability for Small and Remote Mines

Existing § 49.3 provides alternative capability for small and remote mines and is proposed as § 49.13 for underground coal mines. Proposed paragraphs (a) and (c)(3) would be revised to be consistent with the 1-hour requirement of the MINER Act. These provisions would require 1 hour ground travel time from the mine rescue station to the covered mine and that the operator's application include the total underground employment of any mines within 1 hour of the operator's mine. Proposed paragraph (c)(2) would be revised to require that the operator include the location of the mine rescue station serving the mine.

7. Section 49.14 [Reserved]

Existing § 49.4 provides alternative mine rescue capability for special mining conditions. The proposed rule would not include this provision in subpart B because it is not applicable to underground coal mines.

8. Section 49.15(a) Mine Rescue Station

Existing § 49.5(a) requires operators of underground coal mines to designate, in advance, the location of the mine rescue station serving the mine, except where alternative compliance is permitted.

Proposed § 49.15(a) would require every operator of an underground mine to designate, in advance, the location of

the mine rescue station serving the mine. The proposal would delete the exception related to alternative compliance. This proposed provision is consistent with the goals of the MINER Act.

9. Section 49.16(a) Alternative Equipment Requirement for Anthracite Mines

Existing § 49.6(a) requires mine rescue stations to have specific amounts of equipment that are appropriate for two mine rescue teams composed of five members and one alternate. MSHA is proposing this requirement for underground coal mines as § 49.16(a) and adding a provision specifically to address underground anthracite coal mines that have no electrical equipment at the face or working section.

Because MSHA allows mine rescue teams for underground anthracite coal mines, which have no electrical equipment at the face or working section, to have three members for each team and one alternate to serve both teams, anthracite mine operators have submitted petitions for modification under section 101(c) of the Mine Act to MSHA to allow the mine rescue station to maintain eight self-contained oxygen breathing apparatus and eight cap lamps and a charging station, rather than twelve of each as required by the existing standard.

In accordance with section 101(c) of the Mine Act, MSHA investigated each petition and made the following finding:

> MSHA's investigation found that reducing the quantity of equipment required to be purchased and maintained at the anthracite mine rescue station to a quantity consistent with the requirements of granted modifications currently in effect, which allow anthracite mines to be covered by two mine rescue teams of three members each and an alternate, will provide the same measure of protection to the miners.

On the basis of these petitions and the findings of its investigation, MSHA granted 17 petitions for modification of § 49.6(a)(1) and (5) that allow each mine rescue station for anthracite coal mines to have eight self-contained oxygen breathing apparatus, eight cap lamps, and a charging rack, as the approved alternative method. Currently, 10 underground anthracite coal mines operate under this approved alternative method.

Proposed § 49.16(a) would require that mine rescue stations covering anthracite coal mines that have no electrical equipment at the face or working section have at least the amount of equipment appropriate for the number of mine rescue team members, consistent with the action taken in existing petitions for modification. For three-person teams and one alternate, this would mean seven self-contained oxygen breathing apparatus and seven cap lamps; equipment required per team rather than per team member, such as gas detectors, may not be reduced.

10. Section 49.18(b) Training for Mine Rescue Teams

Under the existing standard, after completion of the initial training, all team members must ''receive at least 40 hours of refresher training annually. This training shall be given at least 4 hours each month, or for a period of 8 hours every 2 months.'' For underground coal mines, this training includes training requirements in existing § 49.8(b)(1) through (b)(5), which would be redesignated as § 49.18(b)(1) through (b)(5) in this proposal.

The proposed rule would add a new paragraph (b)(6), which is consistent with the goals of the MINER Act. It would require all mine rescue team members, at least once during each 12-month period, to participate in training that includes wearing mine rescue apparatus while in smoke, simulated smoke, or an equivalent environment. While some mine operators or training facilities may use actual smoke, operators can use a nontoxic smoke, such as theatrical smoke, which is harmless. An equivalent environment could include, for example, training with glasses or face shields that reduce vision and simulate smoke. This requirement would assure that mine rescue team members are trained in realistic conditions.

This proposal also would increase the existing annual training requirement from 40 to 64 hours, given at 8 hours every 2 months. This increase is in response to requirements in the MINER Act for additional mine rescue team training.

The MINER Act requires that team members be familiar with operations of covered mines, have knowledge of the operation and ventilation of covered mines, and train at covered mines. The MINER Act requires mine rescue team members to participate in two mine rescue contests each year. MSHA has determined that an additional 24 hours training per year is necessary to cover training requirements in the MINER Act, including participation in two mine rescue contests. Therefore, a minimum of 64 hours of refresher training is necessary to accommodate the existing and new MINER Act mine rescue team training requirements.

MSHA has reviewed the Mine Safety Technology and Training Commission (Commission) report on *Improving Mine Safety Technology and Training: Establishing U.S. Global Leadership* (2006). This report contained a number of recommendations addressing the training of mine rescue teams. One recommended that the ''minimum amount of training required of mine rescue team members should be increased to eight hours per month,'' for a total of 96 hours annually. MSHA's proposal takes the Commission's recommendation into consideration.

Although the proposal includes 64 hours of training, MSHA requests comment on the proposed 64-hour training requirement. Specifically, the Agency is interested in comment pertaining to whether the proposed amount should be increased or decreased in the final rule. Commenters should specifically address: the rationale for the amount of training; the type of training; the number of hours of training that should be required for specific activities; and the impact of such a requirement on the mining industry's ability to form additional mine rescue teams or retain current mine rescue team members.

Proposed paragraph § 49.18(d) has been revised to be consistent with the goals of the MINER Act by requiring the training courses to be conducted by instructors who have been employed in an underground mine and have had a minimum of 1 year experience as a mine rescue team member or mine rescue instructor within the past 5 years. This requirement is necessary to ensure that mine rescue team members are instructed by persons with practical mine rescue experience. Mine rescue team instructors who have received MSHA approval prior to the effective date of the final rule would not have to meet these new requirements.

C. Subpart B-Mine Rescue Teams for Underground Coal Mines; Additional MINER Act Provisions

Section 4 of the MINER Act requires the following:

- MSHA must establish, and update every 5 years thereafter, criteria to certify the qualifications of mine rescue teams. MSHA is proposing new § 49.50 to address the criteria for certifying the qualifications of coal mine rescue teams.
- Underground coal mine operators must have an employee knowledgeable in mine emergency response who is employed at the mine on each shift and make available two certified mine rescue teams whose members are available at the mine within 1 hour ground travel time from the mine rescue

station. MSHA is proposing changes to existing § 75.1501(a) to address the requirement for an ''employee knowledgeable in mine emergency response.''

• Mine rescue team members must be knowledgeable, experienced, and trained; participate in two mine rescue contests per year; and participate in mine rescue training at each covered mine. MSHA is proposing §§ 49.30 and 49.40 to address these qualification and training-related requirements for small and large underground coal mines, respectively. In addition, MSHA is proposing § 49.60 to address requirements for a local mine rescue contest.

1. Section 75.1501(a) Person Knowledgeable in Mine Emergency Response

The MINER Act requires the operator to have a person employed on each shift who is knowledgeable in mine emergency response. The responsible person required by existing 30 CFR 75.1501 would meet some of the requirements of this provision. Existing § 75.1501(a) requires that—

(a) For each shift that miners work underground, there shall be in attendance a responsible person designated by the mine operator to take charge during mine emergencies involving a fire, explosion or gas or water inundations. The responsible person shall have current knowledge of the assigned location and expected movements of miners underground, the operation of the mine ventilation system, the location of the mine escapeways, the mine communications system, any mine monitoring system if used, and the mine emergency evacuation and firefighting program of instruction.

MSHA is proposing to amend § 75.1501(a) to require that the responsible person also have current knowledge about the mine's Emergency Response Plan and Mine Rescue Notification Plan. Under section 2 of the MINER Act, all underground coal mine operators must adopt an Emergency Response Plan, which must be approved by MSHA. MSHA provides guidance to mine operators for preparing Emergency Response Plans in a Program Policy Letter (PPL P06–V–10, 10/24/2006), and in the Program Information Bulletin on Breathable Air (PIB 07–03, 02/08/2007). The PPL and PIB are available on the MINER Act Single Source Page at *http://www.msha.gov.*

MSHA is also proposing to require that the responsible person be trained annually in mine emergency response coordination and communication. In the event of a mine emergency, the responsible person must be able to quickly initiate the Emergency Response Plan. New requirements have been added to existing § 75.1501 to ensure that the responsible person understands and has knowledge of the procedures and steps necessary to effectively respond to a mine emergency. The responsible person must receive training in the following: organizing a command center; directing firefighting personnel; deploying firefighting equipment; directing mine rescue personnel; establishing a fresh air base; deploying mine rescue teams; providing for mine gas sampling and analysis; establishing security; initiating an emergency mine evacuation; contacting emergency personnel; and communicating appropriate information related to the emergency. This additional training will enhance the responsible person's knowledge in mine emergency response and will assure appropriate actions are taken in emergency situations.

The proposed rule is performance-oriented and, therefore, does not prescribe the duration of this training. Instead, the proposal allows the operator to provide training appropriate to the unique conditions of the mine and the experience of the miner being trained. The proposal includes topics required to be addressed in the training. MSHA expects the operator to assure that the responsible person is adequately prepared to respond appropriately to mine emergencies. Consistent with other MSHA training requirements, the proposed rule would require that the operator certify by signature and date after each responsible person has completed the training and that the certification be kept at the mine for 1 year.

2. Section 49.20 Requirements for All Coal Mines

Proposed § 49.20 would address MINER Act provisions that are the same for all underground coal mine rescue teams, regardless of the size of the operation. It would require the operator to make available two certified mine rescue teams whose members are familiar with the operations of each coal mine covered by the mine rescue team, participate annually in two local mine rescue contests, and train at the covered mines. The proposed rule contains criteria for the certification of mine rescue teams for underground coal mines as § 49.50 and requirements for a local mine rescue contest as § 49.60 of this subpart.

a. Section 49.20(a)(1) Familiarity with Operations of Covered Mines.

MSHA considers ''familiarity'' with the operations of the covered mine as first-hand experience of the underground mining conditions and operations at a particular mine. MSHA expects that team members who work at the covered mine would be familiar with that mine's conditions and operations through participation in mine rescue training and quarterly mine evacuation drills at the mine. Team members who do not work at the covered mine would need to become familiar with its operations by participating in mine rescue training at the mine. This training would include: identifying the designated escapeways, intakes, returns, the ventilation system, locations and types of fire fighting equipment, the communication system, mine-wide monitoring system, and the type of transportation equipment used at the mine. Also, team members would need to be familiar with the location of the mine rescue station, stored SCSRs, breathable air, hardened rooms, and other emergency response equipment or supplies.

MSHA recognizes that the amount of time required to familiarize teams with a particular mine will vary, depending on mining conditions. For example, more complex mines and newer team members may require more time. For this reason, MSHA is not proposing a minimum amount of time for mine rescue team training underground at covered mines. MSHA expects the operator to evaluate each team member to determine the amount of training necessary for that person to become familiar with operations at the covered mine.

b. Section 49.20(a)(2) Participation in Two Local Mine Rescue Contests.

The MINER Act adds a new training requirement that mine rescue team members must participate in two local mine rescue contests annually. Mine rescue contests are designed to sharpen skills and test the knowledge of team members who would be called on to respond to a mine emergency. Historically, mine rescue contests have provided individuals with practical, hands-on experience and are one of the most effective forms of training. Some team members who are regular participants in contests have been called on in recent years to perform actual mine rescue and recovery work. They have done so successfully and training exercises, such as mine rescue contests, were essential to maintaining a well-prepared team.

For the purpose of this requirement, MSHA would consider a two-day contest, with a different competition and simulated mine rescue exercise on each day, as two contests if the team participated on both days. MSHA

expects that this would minimize costs for many teams, while providing necessary training, because the team would have travel costs for only one trip, rather than two trips. Another potential benefit is that this provision would minimize team members'' absence from their mines where they are available to respond in the event of an emergency.

c. Section 49.20(b) Requirements for Types of Mine Rescue Teams

The MINER Act introduces new terms to describe different types of mine rescue teams: mine-site, composite, contract, and State-sponsored teams.

- A mine-site team is made up of team members who work at the mine and train at least annually at the covered mine.
- A composite team provides coverage for multiple mines and has team members which include at least two active employees from each covered mine who have knowledge of the operations and ventilation of the covered mine and train semi-annually at the covered mine. A composite team can be a multiple employer team, a team that provides coverage for multiple mines owned by the same operator, or a State-sponsored team.
- A contract team is a mine rescue team that is provided by an arrangement with another coal mine or with a third party. Members of a contract team mine must have at least 3 years underground coal mine experience within the 10-year period preceding their employment on the contract mine rescue team. Contract teams would have to have knowledge of the operations and ventilation of the covered mine and train quarterly at a covered large mine and semi-annually at a covered small mine. Although the MINER Act uses the phrase ''commercial mine rescue team provided by contract,'' the proposal refers to these teams as contract teams provided through an arrangement with another mine or a third party.
- A State-sponsored team is made up of State employees who train at least annually at the covered mine.

MSHA invites comment regarding the types of State relationships with teams and team members that would qualify the team members as ''employees'' and the team as ''State-sponsored.'' MSHA invites comment regarding the types of teams that are available to mines having 36 or fewer employees who could qualify to be a mine rescue team member and whether these mines should be able to use other types of teams, such as teams consisting of one miner per covered mine.

d. Knowledge of Operations and Ventilation at the Covered Mine

The MINER Act requires members of mine rescue teams covering small underground coal mines, and composite and contract teams covering large underground coal mines, to have knowledge of the operations and ventilation at each covered mine. MSHA expects that this requirement would be met when each team member reviews the mine's ventilation plan, mine maps, roof or ground control plans, and mine emergency evacuation plans. MSHA also expects that team members who work at the mine would generally meet this requirement because they participate in the quarterly mine emergency evacuation training and drills.

e. Mine Rescue Team Training at Each Covered Mine

The MINER Act requires members of mine rescue teams to participate in training at each covered mine. MSHA interprets this to mean that at least one of the training sessions must be conducted underground at the covered mine. The number of training sessions required at the covered mine would depend on the mine size and type of mine rescue team. In accordance with the MINER Act, the Agency includes the following chart to illustrate the required number of training sessions at each covered mine each year by mine size and type of mine rescue team.

TABLE 1.—FREQUENCY OF TRAINING FOR MINE RESCUE TEAM MEMBERS AT EACH COVERED UNDERGROUND COAL MINE EACH YEAR

Type of team	Mine size	
	Large (>36)	Small (≦36)
Mine Site	1 (annually)	2 (semi-annually).
Composite	2 (semi-annually)	2 (semi-annually).
Contract	4 (quarterly)	2 (semi-annually).
State-sponsored	1 (annually)	2 (semi-annually).

MSHA notes that the MINER Act requires mine rescue teams servicing mines with 36 or fewer employees to train at each covered mine semi-annually. This requirement would appear to mean that mine-site teams and State-sponsored teams, which are required to train at large mines annually, would have to train at small mines semi-annually if they service small mines. Although it is unclear why this added burden is placed on small mines, MSHA included this provision, consistent with the MINER Act. MSHA invites comment regarding this matter. Commenters should explain any suggested alternatives, including supporting documentation and data. MSHA also requests comment on whether this training needs to be conducted underground at the covered mine.

f. Integration of Mine Rescue Team Training Requirements

As discussed earlier, the MINER Act requires two new categories of training for mine rescue team members: participation in mine rescue contests and participation in training at the covered mines. These additional requirements complement the existing training in § 49.8, proposed as § 49.18 for underground coal mine rescue teams. The existing standard requires training sessions underground every 6 months; and team members to wear breathing apparatus for a minimum of 2 hours every 2 months. MSHA anticipates that operators will integrate the new requirements, including mine rescue training at the covered mines, with these existing requirements.

3. Section 49.30 Requirements for Small Coal Mines

Proposed § 49.30 would be applicable to each underground coal mine that has 36 or fewer employees who could qualify to be a mine rescue team member. The MINER Act requires that members of mine rescue teams covering these small mines know the operations and ventilation of the mine.

4. Section 49.40 Requirements for Large Coal Mines

Proposed § 49.40 would be applicable to each underground coal mine that has more than 36 employees who could qualify to be a mine rescue team member. The MINER Act requires that the mine operator of a large mine designate either an individual mine-site team or a composite team as one of the two mine rescue teams. The second mine rescue team can be a mine-site, composite, contract, or State-sponsored team.

5. Section 49.50 Certification of Mine Rescue Teams

Section 4 of the MINER Act requires MSHA to establish, and update every 5 years thereafter, criteria to certify the qualifications of mine rescue teams. It also requires each operator of an underground coal mine to designate two certified mine rescue teams. The proposed certification criteria include a certification statement, equipment and training requirements, and the frequency of certification. The proposal would require that a mine operator certify that each of the mine's two designated mine rescue teams meet the requirements of this section. To meet the proposed requirement, the mine operator must submit an annual certification statement to the District Manager. MSHA requests comments on other alternatives for certification of mine rescue teams.

MSHA is proposing that, to be certified, the mine rescue team must be available when miners are underground and within 1-hour ground travel time from the mine rescue station to the mine; team members must be physically fit, experienced working in an underground mine, and properly trained; and the mine rescue station must be adequately equipped. The criteria for these qualifications are contained in the existing and proposed standards. For ease of understanding, the Agency has developed a chart in which the proposed rule lists the criteria for annual certification of mine rescue teams by the section number of the existing and proposed standards in 30 CFR part 49. This chart is proposed as § 49.50, *Table–49.50: Criteria to Certify the Qualifications of Mine Rescue Teams*.

MSHA has developed certification forms that operators may use to assist them in complying with this section. These optional forms are attached as an appendix to this rule. MSHA would provide the forms in an electronic format and allow electronic filing. MSHA has posted the forms on its Web site at *http://www.msha.gov* for comment and would welcome any suggestions. MSHA would accept certification statements in all formats, both electronic and paper.

6. Section 49.60 Requirements for a Local Mine Rescue Contest

Coal mine rescue team members must participate in two local mine rescue contests annually. The proposed rule includes criteria for a local mine rescue contest. The proposed rule also requires that the mine operator provide information concerning the schedule of upcoming local mine rescue contests to the District Manager when requested. MSHA specifically requests comments on the following criteria for a local mine rescue contest:

- The contest must be conducted in the United States and use MSHA-recognized rules.
- The contest must include a minimum of three competing mine rescue teams.
- Team members must have the necessary equipment to participate in a simulated mine rescue exercise; participate in a simulated mine rescue exercise while being timed and observed by trained judges who evaluate the performance of each team and provide written feedback; and wear oxygen breathing apparatus.
- Contest judges must have completed annual training for mine rescue contest judges.

a. *Criteria for a Local Mine Rescue Contest.*

Contest Rules. MSHA-recognized rules are developed annually by the National Mine Rescue Contest Rules Committee, comprised of mine rescue associations and individuals from MSHA, State agencies, academia, and the mining industry. MSHA publishes these National rules on its Web site at *http://www.msha.gov/MineRescue/CONTEST* and gives training on them for any interested persons each year at the National Mine Health and Safety Academy. MSHA would allow contest organizers to use the National Mine Rescue Contest Rules and other rules recognized by MSHA. A consistent set of recognized rules would help mine rescue teams work together more efficiently and effectively when responding to a mine emergency.

Three Teams. In MSHA's experience, a mine rescue contest must have at least three teams competing to provide a meaningful competition and learning opportunity. Mine rescue contests are a vital element in improving mine rescue team expertise. They increase mine rescue skills, build team cohesiveness and trust, and broaden problem-solving abilities. Requiring a minimum of three teams would reduce the possibility of a competition between teams only from the same mine and promote competitions among teams in close geographic proximity.

Team Members. Even though participation in a mine rescue contest is considered a training exercise, team members must be prepared to compete as if the contest were a real mine emergency. Team members must have the necessary equipment to participate in a simulated mine rescue exercise. Participation in a simulated mine rescue exercise while being timed, observed, and judged provides a measure of stress. The mine rescue contest is an opportunity to test the team member's level of knowledge and skill under simulated mine emergency conditions. The ability to make correct decisions quickly, while under stress and wearing breathing apparatus, is a vital skill for each mine rescue team member to develop.

Judges. In order for judges to administer the mine rescue contest fairly and provide appropriate and meaningful feedback, judges should have a strong background in contest rules and critiquing team member performance. Each year, MSHA provides training at the National Mine Health and Safety Academy for MSHA, State, industry, mine rescue team personnel, simulated mine rescue exercise designers, and other interested parties. This training is provided under a train-the-trainer concept, thereby expanding the reach of the training. Persons attending this training are then qualified to provide training to judges at the local level. The training is titled, ''National Mine Rescue Rules and Interpretations Training.'' This training is also Web cast to Western Kentucky; Denver, Colorado; Birmingham, Alabama; and Price, Utah. This training also includes time for a question and answer discussion.

The Agency solicits comments on whether there should be a minimum amount of annual training prescribed for contest judges. In MSHA's experience, training on contest rules and interpretations provides the necessary background for evaluating and critiquing mine rescue team performance. MSHA is considering allowing attendance at this training to satisfy the requirement for annual training for judges. MSHA requests comments on this approach or whether some other training is more appropriate for mine rescue contest judges.

b. *Notifying MSHA.* The proposed rule requires mine operators to notify the appropriate District Manager, on

request, when and where their designated teams plan to participate in mine rescue contests. This notice would allow MSHA to attend the contest and provide assistance. MSHA could verify that the contest meets the requirements of § 49.60 and achieves its purpose to increase mine rescue skills, build team cohesiveness and trust, and broaden problem-solving abilities.

c. *Alternative to Participation in Local Mine Rescue Contests.*

This proposal allows alternatives to local mine rescue contests so long as the training provides equivalent skills development. Under the proposal, Mine Emergency Response Development (MERD) drills could count as equivalent training when the team participates in a realistic simulation exercise, such as fire and explosion drills, while wearing breathing apparatus. Other training that provides an equivalent realistic simulation exercise, such as fire and explosion drills, can substitute for participation in a local mine rescue contest. MSHA would allow actual underground participation in a rescue or recovery operation as a substitute for participation in a local mine rescue contest. MSHA requests comments on other alternatives to participation in local mine rescue contests.

IV. Preliminary Regulatory Economic Analysis

A. Executive Order 12866

Executive Order (E.O.) 12866 as amended by E.O. 13258 (Amending Executive Order 12866 on Regulatory Planning and Review) requires that regulatory agencies assess both the costs and benefits of regulations. To comply with E.O. 12866, MSHA has prepared a Preliminary Regulatory Economic Analysis (PREA) for the proposed rule. The PREA contains supporting data and explanation for the summary materials presented in this preamble, including the covered mining industry, costs and benefits, feasibility, small business impacts, and paperwork. The PREA is located on MSHA's Web site at *http://www.msha.gov/REGSINFO.HTM.* A printed copy of the PREA can be obtained from MSHA's Office of Standards, Regulations, and Variances at the address in the **ADDRESSES** section of this preamble.

Executive Order 12866 classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it has an annual effect on the economy of $100 million or more; creates a serious inconsistency or interferes with an action of another agency; materially alters the budgetary impact of entitlements or the rights of entitlement recipients; or raises novel legal or policy issues. Based on the PREA, MSHA has determined that the proposed rule would not have an annual effect of $100 million or more on the economy and that, therefore, it is not an economically ''significant regulatory action'' pursuant to section 3(f) of E.O. 12866. MSHA, however, has concluded that the proposed rule is otherwise significant under Executive Order 12866 because it raises novel legal or policy issues.

B. Population at Risk

The proposed rule would apply to 653 underground coal mines and cover 42,597 miners and 8,250 (non-office) contractors working at them. Table 2 shows a summary distribution of mines, underground employment, costs attributed to this proposal, and revenues for these underground coal mines.

TABLE 2.—SUMMARY DATA FOR UNDERGROUND COAL MINES

Mine size [A]	Number of mines	Total number of miners [B]	Number of employees [B] underground	Annual revenue (billions)	Annual cost (millions)	Cost per mine
1–19	220	2,255	1,952	$0.3	$0.7	$3,100
20–500	420	32,852	29,742	9.8	2.3	5,500
>500	13	7,490	6,503	3.0	0.1	7,300
All Mines	653	42,597	38,197	13.1	3.1	4,700

[A] Size based on total mine employment, excluding office workers.
[B] Does not include 8,250 (non-office) contractor employees, 4,096 of which work underground.

C. Costs

As shown in Table 3, MSHA estimates that the proposed rule would result in total yearly costs for the underground coal mining industry of approximately $3.1 million. Disaggregated by mine size, yearly costs would be $0.7 million (or approximately $3,100 per mine) for mine operators with fewer than 20 employees; $2.3 million (or about $5,500 per mine) for mine operators with 20–500 employees; and $0.1 million (or about $7,300 per mine) for mine operators with more than 500 employees. All cost estimates are presented in 2005 dollars.

Table 3: Summary of Total Yearly Cost of the Proposed Rule for Underground Coal Mine Operators

Requirement	Mine Size			Total Yearly Cost
	1-19	20-500	501+	
One Hour from Mine Rescue Station to Mine*	$317,530	$150,409	$0	$467,938
Mine Rescue Team Training	$205,932	$1,333,372	$50,719	$1,590,024
Mine Rescue Contests	$62,485	$503,349	$29,480	$595,315
Certification of Mine Rescue Teams	$7,175	$13,697	$424	$21,296
Responsible Person Training & Certification	$83,267	$317,930	$14,761	$415,958
Total	**$676,390**	**$2,318,758**	**$95,384**	**$3,090,531**

* Cost for 28 new mine rescue stations.

Specific to the mine rescue team proposed rule, MSHA has broken down total compliance costs for mines with 1–36 employees and mines with 37 or more employees. Of the $3.1 million total yearly cost of the proposed rule, underground coal mines with 1–36 employees would incur costs of approximately $1.3 million per year and underground coal mines with 37 or more employees would incur costs of approximately $1.8 million per year.

In addition, the proposed rule would impose costs on State-sponsored mine rescue teams. As shown in Table 4, the total yearly cost of the proposed rule for State-sponsored mine rescue teams would be about $132,000. Of this, $89,000 would be for training and $43,000 would be for participation in two local mine rescue contests.

Table 4: Summary of Total Yearly Cost of the Proposed Rule for State Mine Rescue Teams

Requirement	Mine Size			Total Yearly
	1-19	20-500	501+	
Mine Rescue Team Training	$40,394	$48,067	$988	$89,448
Mine Rescue Contests	$15,713	$26,362	$447	$42,522
Total	**$56,107**	**$74,429**	**$1,434**	**$131,971**

These cost estimates are based on a variety of key assumptions regarding the response of industry and States to the proposed rule: (1) 28 mine rescue stations would be added to the 92 stations currently serving underground coal mines; (2) an additional 56 mine rescue teams would be formed; (3) none of the existing 145 mine rescue teams would disband; and (4) the additional mine rescue teams would not impose any costs on mine operators other than those itemized in the PREA. In addition, although MSHA is aware that the requirements in the proposed rule may place some pressure on States to increase the number of State-sponsored mine rescue teams and stations, MSHA assumed no change in the existing provision of these services in response to the proposed rule. MSHA solicits comments on these and all other assumptions and data used in the PREA.

D. Benefits

The purpose of this proposed rule is to enhance the availability and effectiveness of mine rescue teams in the event of an emergency situation at an underground coal mine. Mine operators often rely on mine rescue teams to save miners during an underground emergency such as an explosion, fire, roof fall, or water inundation. In such a situation, the timely arrival of a properly-trained mine rescue team can sometimes mean the difference between life and death. In most instances, other types of rescue units, e.g., a rescue squad from the local fire department, are unlikely to have the specialized training and equipment to respond effectively to an emergency due to the hazardous nature of the underground coal mine environment.

A good mine rescue team will have knowledge and familiarity with the mine layout, including the location of working sections, mining equipment, fire-fighting equipment, first aid supplies, transportation, escapeways, and emergency shelters; know the mine's roof conditions and ventilation system; and have an established working relationship with mine management and among the team members. These factors provide for more efficient decision-making during an emergency and increased confidence in the personnel who implement these decisions.

MSHA has qualitatively determined that the proposed rule would make coal mine rescue teams better able to respond to emergencies when a quick response by rescue teams is vital to miners. The proposed rule would improve overall mine rescue service in three areas:

- It would improve mine emergency response time by requiring that mine rescue team members be available at the mine within 1 hour ground travel time from the mine rescue station.
- It would increase the quality and effectiveness of training by requiring team members to be familiar with the covered mines'' operations, participate in training at the covered mines, and participate in two local mine rescue contests.
- It would strengthen the requirements for knowledge and experience of mine rescue team

members by requiring them to have knowledge of the operations and ventilation of the covered mines and by requiring contract team members to have at least 3 years underground coal mine experience within the 10-year period preceding their employment on the contract team.

The proposed rule also would increase awareness of the mine operator by requiring the mine operator to provide two certified mine rescue teams and to have a person knowledgeable in mine emergency response on each shift. The proposal includes criteria for certifying the mine rescue teams and clarifies training requirements for the knowledgeable person.

Team members employed at a given mine are exceptionally knowledgeable in mine gases, ventilation, first aid, and other health and safety subjects as they apply generally and at that specific mine. Their level of mine rescue training, combined with their everyday presence during the normal work cycle, provides an added measure of safety for each worker at the mine.

V. Feasibility

MSHA has concluded that the requirements of the proposed rule are technologically and economically feasible.

A. Technological Feasibility

This proposed rule is not a technology-forcing standard and does not involve new scientific knowledge. The requirements of the rule involve training and purchase of equipment and a requirement that the mine rescue station be located closer, within 1 hour (rather than 2 hours) ground travel time to the covered mines. MSHA projects that this requirement would necessitate additional mine rescue stations and mine rescue teams. MSHA has concluded that the proposed rule is technologically feasible.

B. Economic Feasibility

The total cost of the proposed rule is approximately $3.1 million annually for all underground coal mine operators. These compliance costs are well under one percent of the yearly revenues of $13.1 billion for these underground coal mine operators. MSHA concludes that the amount of these costs supports its finding that the proposed rule is economically feasible. MSHA solicits comments on this issue.

VI. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act

Pursuant to the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), MSHA analyzed the impact of the proposed rule on small entities. Based on that analysis, MSHA notified the Chief Council for Advocacy, Small Business Administration (SBA), and made the certification under the Regulatory Flexibility Act at 5 U.S.C. 605(b) that the proposed rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is presented in full in Chapter V of the PREA and in summary form below.

A. Definition of a Small Mine

Under the RFA, in analyzing the impact of a proposed rule on small entities, MSHA must use the Small Business Administration's (SBA's) definition for a small entity, or after consultation with the SBA Office of Advocacy, establish an alternative definition for the mining industry by publishing that definition in the **Federal Register** for notice and comment. MSHA has not established an alternate definition and is required to use the SBA definition. The SBA defines a small entity in the mining industry as an establishment with 500 or fewer employees.

MSHA has also examined the impact of this proposed rule on underground coal mines with fewer than 20 employees, which MSHA has traditionally referred to as ''small mines.'' These small mines differ from larger mines not only in the number of employees, but also in economies of scale in material produced, in the type and amount of production equipment, and in supply inventory. Therefore, the cost of complying with MSHA's proposed rule and the impact of the proposed rule on small mines will also be different. It is for this reason that small mines are of special concern to MSHA.

In addition, MSHA has examined the cost of compliance for underground coal mines with 36 or fewer employees, consistent with the requirements of the MINER Act, to ensure that the proposed rule would not significantly and adversely impact this subset of mines. Thus, the detailed factual basis below also shows the economic impact on underground coal mines with 36 or fewer employees.

B. Factual Basis for Certification

MSHA initially evaluates the economic impact of a rule on ''small entities'' by comparing the estimated costs of the rule for small entities to their estimated revenues. When estimated costs are less than one percent of estimated revenues for the size categories considered, MSHA believes it is generally appropriate to conclude that there is no significant economic impact on a substantial number of small entities. If the estimated costs are equal to or exceed one percent of revenues, MSHA will investigate whether a further analysis is required. For this proposed rule, MSHA has determined that the estimated costs are less than one percent of the estimated revenues. Therefore, MSHA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Coal mining revenues are derived from data on the price of coal and total coal production. Total underground coal production in 2006 was 359 million tons. The price of underground coal in 2005 was $36.42 per ton.[1] Thus, based on the total amount of coal production and the cost of coal per ton, the total estimated revenue in 2006 for underground coal production was $13.1 billion. Using the same approach, the estimated 2005 underground coal revenue by employment size category is approximately $0.3 billion for 220 mines with 1–19 employees, $1.3 billion for 368 mines with 1–36 employees, and $10.1 billion for 640 mines with 1–500 employees.

The proposed rule would result in an average yearly cost per underground coal mine of $3,074 for mines with 1–19 employees; $3,231 for mines with 1–36 employees; and $4,680 for mines with 1–500 employees. The average yearly cost per mine for all underground coal mines is $4,733. When dividing the yearly compliance costs by the annual revenues in each mine size category, the cost of the rule for underground coal mines is 0.24% of revenues for mines with 1–19 employees, 0.10% of revenues for mines with 1–36 employees, and 0.03% of revenues for mines with 1–500 employees. The cost as a percentage of revenues for all underground coal mines would be approximately 0.02%.

When applying MSHA's and SBA's definition of small entities, the annual cost of the proposed rule to small mines is substantially less than one percent of their estimated annual revenues. The proposed rule, therefore, would not have a significant economic impact on a substantial number of small entities. Accordingly, MSHA has certified that the proposed rule would not have a significant economic impact on a substantial number of small entities that are covered by the proposed rule.

[1] U.S. Dept. of Energy, Energy Information Administration, ''Annual Coal Report 2005,'' Table 28, October 2006.

VII. Paperwork Reduction Act of 1995

1. Summary

The mine rescue team proposed rule would continue the existing paperwork burden requirements and impose several new paperwork burden requirements. Proposed § 49.16 would continue to require certification of inspection and testing of breathing apparatus, as well as a record of any corrective action taken for breathing apparatus. Proposed § 49.18 would continue to require preparation of training materials for new mine rescue team members and a record of each new mine rescue team member's training. The Office of Management and Budget (OMB) has approved these requirements, which are in existing §§ 49.6 and 49.8, under OMB control number 1219–0078. In addition, proposed § 49.50 would impose a new annual paperwork burden for mine operators to certify that each designated mine rescue team meets the requirements of this part. MSHA has developed optional forms for the mine operator to use for this certification. Proposed § 75.1501 also would require mine operators to certify that each responsible person has completed the required mine emergency response training.

Overall, the underground coal industry would incur approximately 2,466 paperwork burden hours in the first year with associated paperwork burden costs of approximately $83,300. Total burden hours in the first year consist of two components: first year burden hours and annual burden hours. Annual burden hours are those that occur every year. Of the 2,466 burden hours, 39 burden hours would occur in the first year and every 10 years thereafter with associated costs of $2,450 (equivalent to $349 of annualized costs). The remaining 2,427 burden hours would occur in the first year and every year thereafter with associated costs of approximately $83,000.

MSHA projects that the proposed rule would require additional mine rescue teams and equipment. Existing standards require information collection for mine rescue teams and equipment. MSHA would add the information collection burden for additional teams and equipment to that approved under existing Office of Management and Budget (OMB) control number 1219–0078.

For a detailed explanation of how the burden hours and related costs were calculated, see Chapter VII of the Preliminary Regulatory Economic Analysis (PREA) accompanying this proposed rule. The PREA is posted on MSHA's Web site at *http://www.msha.gov/REGSINFO.HTM.* A print copy of the PREA can be obtained from MSHA's Office of Standards, Regulations, and Variances at the address provided in the **ADDRESSES** section of this preamble.

2. Procedural Details

The information collection package has been submitted to OMB for review under 44 U.S.C. 3504, paragraph (h) of the Paperwork Reduction Act of 1995, as amended. A copy of the information collection package can be obtained from the Department of Labor by electronic mail request to *king.darrin@dol.gov* or by phone request to 202–693–4129.

MSHA requests comments to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments on the information collection requirements should be sent to both OMB and MSHA. Addresses for both offices can be found in the **ADDRESSES** section of this preamble. The regulated community is not required to respond to any collection of information unless it displays a current, valid, OMB control number. MSHA displays OMB control numbers in 30 CFR part 3.

VIII. Other Regulatory Considerations

A. The Unfunded Mandates Reform Act of 1995

MSHA has reviewed the proposed rule under the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*). The proposed rule would not increase private sector expenditures by more than $100 million annually; nor would it significantly or uniquely affect small governments. The proposed rule may result in increased expenditures by State, local, or tribal governments, however, because it places new requirements on underground coal mine operators in providing and training mine rescue teams. These proposed changes would not directly affect States or their relationships with the national government; however, some States sponsor mine rescue teams. In the spirit of the Unfunded Mandates Reform Act, MSHA specifically solicits comments on this proposed rule from State officials.

B. The Treasury and General Government Appropriations Act of 1999: Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 (5 U.S.C. 601 note) requires agencies to assess the impact of proposed agency actions on family well-being. MSHA has determined that this proposed rule would have no effect on family stability or safety, marital commitment, parental rights and authority, or income or poverty of families and children. Accordingly, MSHA certifies that this proposed rule would not impact family well-being.

C. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights

This proposed rule would not implement a policy with takings implications. Accordingly, E.O. 12630 requires no further Agency action or analysis.

D. Executive Order 12988: Civil Justice Reform

This proposed rule was written to provide a clear legal standard for affected conduct and was carefully reviewed to eliminate drafting errors and ambiguities, so as to minimize litigation and undue burden on the Federal court system. Accordingly, this proposed rule would meet the applicable standards provided in Section 3 of E.O. 12988.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This proposed rule would have no adverse impact on children. Accordingly, E.O. 13045 requires no further Agency action or analysis.

F. Executive Order 13132: Federalism

Executive Order (E.O.) 13132 requires MSHA to develop an accountable process to ensure a meaningful and timely input by State and local officials in the development of regulatory policies that have ''federalism implications.'' Policies that have federalism implications are defined as

having ''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.'' The proposed rule would place new requirements on underground coal mine operators in providing and training mine rescue teams. These proposed changes would not directly affect States or their relationships with the federal government. Although the proposed rule does not directly affect States, some States sponsor mine rescue teams. Consistent with the spirit of E.O. 13132, MSHA specifically solicits comments on this proposed rule from State officials.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule would not have ''tribal implications,'' because it would 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.'' Accordingly, E.O. 13175 requires no further Agency action or analysis.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to publish a statement of energy effect when a rule has a significant energy action that adversely affects energy supply, distribution, or use. MSHA has reviewed the proposed rule for its impact on the supply, distribution, and use of energy because it applies to the underground coal mining industry. MSHA has concluded that this proposed rule is not a significant energy action because it would not have a significant adverse effect on the supply, distribution, or use of energy. Further, because this proposed rule would result in yearly costs of approximately $3.1 million to the underground coal mining industry, relative to annual revenues of $13.1 billion in 2006, it would not be a significant energy action because it would not be likely to have a significant adverse effect on the supply, distribution, or use of energy. Accordingly, E.O. 13211 requires no further Agency action.

List of Subjects in 30 CFR Part 49

Education and training, Mine safety and health, Reporting and recordkeeping requirements.

Dated: August 29, 2007.

Richard E. Stickler,

Assistant Secretary for Mine Safety and Health.

For the reasons set out in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977 as amended by the Mine Improvement and New Emergency Response Act of 2006, MSHA is proposing to amend chapter 1 of title 30 of the Code of Federal Regulations as follows.

PART 49—MINE RESCUE TEAMS

1. The authority for part 49 is revised to read as follows:

Authority: 30 U.S.C. 811, 825(e).

Subpart A—Mine Rescue Teams for Underground Metal and Nonmetal Mines

2. Add a new subpart A with the heading as shown above consisting of existing §§ 49.1 through 49.9.

§ 49.10 [Removed]

3. Remove § 49.10.

4. Add new subpart B to read as follows:

Subpart B—Mine Rescue Teams for Underground Coal Mines

Sec.
49.11 Purpose and scope.
49.12 Availability of mine rescue teams.
49.13 Alternative mine rescue capability for small and remote mines.
49.14 Reserved.
49.15 Mine rescue station.
49.16 Equipment and maintenance requirements.
49.17 Physical requirements for mine rescue team.
49.18 Training for mine rescue teams.
49.19 Mine emergency notification plan.
49.20 Requirements for all coal mines.
49.30 Requirements for small coal mines.
49.40 Requirements for large coal mines.
49.50 Certification of coal mine rescue teams.
49.60 Requirements for a local mine rescue contest.
Appendix to Part 49 Subpart B: Optional Forms for Certifying Mine Rescue Teams.

Subpart B—Mine Rescue Teams for Underground Coal Mines

§ 49.11 Purpose and scope.

(a) This subpart implements the provisions of section 115(e) of the Federal Mine Safety and Health Act of 1977 as amended by the Mine Improvement and New Emergency Response Act of 2006 (MINER Act). Every operator of an underground coal mine shall assure the availability of mine rescue capability for purposes of emergency rescue and recovery.

(b) The following Table 49.11 summarizes the new requirements for mine rescue teams contained in section 4 of the MINER Act.

TABLE 49.11—SUMMARY OF NEW MINER ACT REQUIREMENTS FOR UNDERGROUND COAL MINE OPERATORS AND MINE RESCUE TEAMS.

Requirement	Type of Mine Rescue Team			
	Mine-site	Composite	Contract	State-sponsored*
Team members must participate at least annually in two local mine rescue contests.	YES	YES	YES	YES
Team members must participate in mine rescue training at the underground coal mine covered by the mine rescue team.	Annually at Large Mines. Semi-annually at Small Mines.	Semi-annually	Quarterly at Large Mines. Semi-annually at Small Mines.	Annually at Large Mines Semi-annually at Small Mines
Teams must be available at the mine within 1 hour ground travel time from the mine rescue station.	YES	YES	YES	YES
Team members must be knowledgeable about the operations and ventilation of the covered mines.	YES	YES	YES	YES
Teams must have team members which include at least two active employees from each of the covered mines.		YES		

TABLE 49.11—SUMMARY OF NEW MINER ACT REQUIREMENTS FOR UNDERGROUND COAL MINE OPERATORS AND MINE RESCUE TEAMS.—Continued

Requirement	Type of Mine Rescue Team			
	Mine-site	Composite	Contract	State-sponsored*
Team must be comprised of persons with a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.	.....	.....	YES	
All mine operators must provide for two certified mine rescue teams. Large mine operators shall provide one team that is either an individual mine-site mine rescue team or a composite team.				

***Note:** Team members of State-sponsored teams who are full-time State employees whose primary job duties include (1) inspecting underground mines for compliance with State safety laws or (2) training mine rescue teams or (3) conducting mine safety training or (4) other similar duties that would enhance their mine rescue knowledge may substitute their regular job experience for 50 percent of the training requirements (annual training which includes mine rescue contests and mine-site training) for non-State employee mine rescue team members.

§ 49.12 Availability of mine rescue teams.

(a) Except where alternative compliance is permitted for small and remote mines (§ 49.13), every operator of an underground mine shall:

(1) Establish at least two mine rescue teams which are available at all times when miners are underground; or

(2) Enter into an arrangement for mine rescue services which assures that at least two mine rescue teams are available at all times when miners are underground.

(b) Each mine rescue team shall consist of five members and one alternate who are fully qualified, trained, and equipped for providing emergency mine rescue service. Mine rescue teams for anthracite coal mines, which have no electrical equipment at the face or working section, shall consist of at least three members per team and one alternate that may be shared between both teams.

(c) To be considered for membership on a mine rescue team, each person must have been employed in an underground mine for a minimum of 1 year within the past 5 years, except that members of contract mine rescue teams shall have a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team. For the purpose of mine rescue work only, miners who are employed on the surface but work regularly underground shall meet the experience requirement. The underground experience requirement is waived for those miners on a mine rescue team on the effective date of this rule.

(d) Each operator shall arrange, in advance, ground transportation for rescue teams and equipment to the mine or mines served.

(e) Upon the effective date of this part, the required rescue capability shall be present at all existing underground mines, upon initial excavation of a new underground mine entrance, or the re-opening of an existing underground mine.

(f) No mine served by a mine rescue team shall be located more than 1 hour ground travel time from the mine rescue station with which the rescue team is associated.

(g) As used in this part, mine rescue teams shall be considered available where teams are capable of presenting themselves at the mine site(s) within a reasonable time after notification of an occurrence which might require their services. Rescue team members will be considered available even though performing regular work duties or in an off-duty capacity. The requirement that mine rescue teams be available shall not apply when teams are participating in mine rescue contests or providing services to another mine.

(h) Each operator of an underground mine who provides rescue teams under this section shall send the District Manager a statement describing the mine's method of compliance with this part. The statement shall disclose whether the operator has independently provided mine rescue teams or entered into an agreement for the services of mine rescue teams. The name of the provider and the location of the services shall be included in the statement. A copy of the statement shall be posted at the mine for the miners' information. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the statement.

§ 49.13 Alternative mine rescue capability for small and remote mines.

(a) If an underground mine is small and remote, an operator may provide for an alternative mine rescue capability. For the purposes of this part only, consideration for small and remote shall be given where the total underground employment of the operator's mine and any surrounding mine(s) within 1 hour ground travel time of the operator's mine is less than 36.

(b) An application for alternative mine rescue capability shall be submitted to the District Manager for the district in which the mine is located for review and approval.

(c) Each application for an alternative mine rescue capability shall contain:

(1) The number of miners employed underground at the mine on each shift;

(2) The location of the designated mine rescue station serving the mine;

(3) The total underground employment of mines within 1 hour ground travel time of the operator's mine;

(4) The operator's mine fire, ground, and roof control history;

(5) The operator's established escape and evacuation plan;

(6) A statement by the operator evaluating the usefulness of additional refuge chambers to supplement those which may exist;

(7) A statement by the operator as to the number of miners willing to serve on a mine rescue team;

(8) The operator's alternative plan for assuring that a suitable mine rescue capability is provided at all times when miners are underground; and

(9) Other relevant information about the operator's mine which may be requested by the District Manager.

(d) A copy of the operator's application shall be posted at the mine. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the application.

(e) In determining whether to approve an application for alternative compliance, the District Manager shall consider:

(1) The individual circumstances of the small and remote mine;

(2) Comments submitted by, or on behalf of, any affected miner; and

(3) Whether the alternative mine rescue plan provides a suitable rescue capability at the operator's mine.

(f) Where alternative compliance is approved by MSHA, the operator shall adopt the alternative plan and post a copy of the approved plan (with appropriate MSHA mine emergency telephone numbers) at the mine for the miners' information. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the approved plan.

(g) The operator shall notify the District Manager of any changed condition or factor materially affecting information submitted in the application for alternative mine rescue capability.

(h)(1) An approved plan for alternative mine rescue capability shall be subject to revocation or modification for cause by MSHA, where it is determined that a condition or factor has changed which would materially alter the operator's mine rescue capability. If such action is contemplated, the operator will be notified, and given an opportunity to be heard before the appropriate District Manager.

(2) If an application for alternative compliance is denied or revoked, the District Manager shall provide the reason for such denial or revocation in writing to the operator. The operator may appeal this decision in writing to the Administrator for Coal Mine Safety and Health.

§ 49.14 [Reserved]

§ 49.15 Mine rescue station.

(a) Every operator of an underground mine shall designate, in advance, the location of the mine rescue station serving the mine.

(b) Mine rescue stations are to provide a centralized storage location for rescue equipment. This centralized storage location may be either at the mine site, affiliated mines, or a separate mine rescue structure.

(c) Mine rescue stations shall provide a proper storage environment to assure equipment readiness for immediate use.

(d) Authorized representatives of the Secretary shall have the right of entry to inspect any designated mine rescue station.

§ 49.16 Equipment and maintenance requirements.

(a) Each mine rescue station shall be provided with at least the following equipment. Mine rescue stations serving underground anthracite coal mines, which have no electrical equipment at the face or working section, shall have at least the amount of equipment appropriate for the number of mine rescue team members.

(1) Twelve self-contained oxygen breathing apparatus, each with a minimum of 2 hours capacity (approved by MSHA and NIOSH under 42 CFR part 84, subpart H), and any necessary equipment for testing such breathing apparatus;

(2) A portable supply of liquid air, liquid oxygen, pressurized oxygen, oxygen generating or carbon dioxide absorbent chemicals, as applicable to the supplied breathing apparatus and sufficient to sustain each team for 6 hours while using the breathing apparatus during rescue operations;

(3) One extra oxygen bottle (fully charged) for every six self-contained compressed oxygen breathing apparatus;

(4) One oxygen pump or a cascading system, compatible with the supplied breathing apparatus;

(5) Twelve permissible cap lamps and a charging rack;

(6) Two gas detectors appropriate for each type of gas which may be encountered at the mines served;

(7) Two oxygen indicators or two flame safety lamps;

(8) One portable mine rescue communication system (approved under part 23 of this title) or a sound-powered communication system. The wires or cable to the communication system shall be of sufficient tensile strength to be used as a manual communication system. These communication systems shall be at least 1,000 feet in length; and

(9) Necessary spare parts and tools for repairing the breathing apparatus and communication system.

(b) Mine rescue apparatus and equipment shall be maintained in a manner that will ensure readiness for immediate use. A person trained in the use and care of breathing apparatus shall inspect and test the apparatus at intervals not exceeding 30 days and shall certify by signature and date that the inspections and tests were done. When the inspection indicates that a corrective action is necessary, the corrective action shall be made and the person shall record the corrective action taken. The certification and the record of corrective action shall be maintained at the mine rescue station for a period of 1 year and made available on request to an authorized representative of the Secretary.

§ 49.17 Physical requirements for mine rescue team.

(a) Each member of a mine rescue team shall be examined annually by a physician who shall certify that each person is physically fit to perform mine rescue and recovery work for prolonged periods under strenuous conditions. The first such physical examination shall be completed within 60 days prior to scheduled initial training. A team member requiring corrective eyeglasses will not be disqualified provided the eyeglasses can be worn securely within an approved facepiece.

(b) In determining whether a miner is physically capable of performing mine rescue duties, the physician shall take the following conditions into consideration:

(1) Seizure disorder;

(2) Perforated eardrum;

(3) Hearing loss without a hearing aid greater than 40 decibels at 400, 1000, and 2000 Hz;

(4) Repeated blood pressure (controlled or uncontrolled by medication) reading which exceeds 160 systolic, or 100 diastolic, or which is less than 105 systolic, or 60 diastolic;

(5) Distant visual acuity (without glasses) less than 20/50 Snellen scale in one eye, and 20/70 in the other;

(6) Heart disease;

(7) Hernia;

(8) Absence of a limb or hand; or

(9) Any other condition which the examining physician determines is relevant to the question of whether the miner is fit for rescue team service.

(c) The operator shall have MSHA Form 5000–3 certifying medical fitness completed and signed by the examining physician for each member of a mine rescue team. These forms shall be kept on file at the mine rescue station for a period of 1 year.

§ 49.18 Training for mine rescue teams.

(a) Prior to serving on a mine rescue team each member shall complete, at a minimum, an initial 20-hour course of instruction as prescribed by MSHA's Office of Educational Policy and Development, in the use, care, and maintenance of the type of breathing apparatus which will be used by the mine rescue team. The initial training requirement is waived for those miners on a mine rescue team on the effective date of this rule.

(b) Upon completion of the initial training, all team members shall receive at least 64 hours of training annually, which shall consist of refresher training given at 8 hours every 2 months. Refresher training shall include:

(1) Sessions underground at least once each 6 months;

(2) The wearing and use of the breathing apparatus by team members for a period of at least 2 hours while under oxygen every 2 months;

(3) Where applicable, the use, care, capabilities, and limitations of auxiliary mine rescue equipment, or a different breathing apparatus;

(4) Advanced mine rescue training and procedures, as prescribed by MSHA's Office of Educational Policy and Development;

(5) Mine map training and ventilation procedures; and

(6) The wearing of mine rescue apparatus while in smoke, simulated smoke, or an equivalent environment at least once during each 12-month period.

(c) A mine rescue team member will be ineligible to serve on a team if more than 8 hours of training is missed during 1 year, unless additional training is received to make up for the time missed.

(d) The training courses required by this section shall be conducted by instructors who have been employed in an underground mine and have had a minimum of 1 year experience as a mine rescue team member or a mine rescue instructor within the past 5 years and who have received MSHA approval through one of the following methods:

(1) Completion of an MSHA or State approved instructor's training course and the program of instruction in the subject matter to be taught; or

(2) Designation by the District Manager as approved instructors to teach specific courses, based on their qualifications and teaching experience outlined above. Previously approved instructors need not be redesignated to teach the approved courses as long as they have taught those courses within the 24 months prior to the effective date of this part.

(e) The District Manager may revoke an instructor's approval for good cause. A written statement revoking the approval together with reasons for revocation shall be provided the instructor. The affected instructor may appeal the decision of the District Manager by writing to the Administrator for Coal Safety and Health. The Administrator shall issue a decision on the appeal.

(f) Upon request from the District Manager, the operator shall provide information concerning the schedule of upcoming training.

(g) A record of training of each team member shall be on file at the mine rescue station for a period of 1 year.

§ 49.19 Mine emergency notification plan.

(a) Each underground mine shall have a mine rescue notification plan outlining the procedures to follow in notifying the mine rescue teams when there is an emergency that requires their services.

(b) A copy of the mine rescue notification plan shall be posted at the mine for the miners' information. Where a miners' representative has been designated, the operator shall also provide the representative with a copy of the plan.

§ 49.20 Requirements for all coal mines.

(a) The operator of each underground coal mine shall make available two certified mine rescue teams whose members—

(1) Are familiar with the operations of the mine, and

(2) Participate at least annually in two local mine rescue contests.

(b) Team members shall meet the following:

(1) *Mine-site team.* Members who work at the mine and participate in mine rescue training at the mine at least annually at large mines and semi-annually at small mines.

(2) *Composite team.* A mine rescue team that covers multiple mines and whose members—

(i) Include at least two members from each covered mine,

(ii) Are knowledgeable about the operations and ventilation of the covered underground coal mines, and

(iii) Participate in mine rescue training at each covered mine at least semi-annually at large and small mines.

(3) *Contract team.* A mine rescue team that is provided by an arrangement with another coal mine or with a third party and whose members—

(i) Are knowledgeable about the operations and ventilation of the covered underground coal mine, and

(ii) Participate in mine rescue training at a covered large mine at least quarterly and at a covered small mine at least semi-annually.

(4) *State-sponsored team.* Members who are State employees and participate in mine rescue training at a covered large mine at least annually and at a covered small mine at least semi-annually.

§ 49.30 Requirements for small coal mines.

At mines with 36 or fewer employees, mine rescue team members shall be knowledgeable about the operations and ventilation of the mine.

§ 49.40 Requirements for large coal mines.

At mines with more than 36 employees, one of the two certified mine rescue teams shall be an individual mine-site team or a composite team.

§ 49.50 Certification of coal mine rescue teams.

For each mine rescue team designated to provide mine rescue coverage at an underground coal mine, the mine operator shall send the District Manager an annual statement certifying that each team meets the requirements of this part as listed in the following Table 49.50.

TABLE 49.50.—CRITERIA TO CERTIFY THE QUALIFICATIONS OF MINE RESCUE TEAMS

Qualification	Criteria (30 CFR)
(a) Team Members	
(1) Except where alternative compliance is permitted, team has at least five members and one alternate.	49.12(a) 49.12(b)
(2) Members are physically fit.	49.17
(3) Members have experience working in an underground coal mine.	49.12(c)
(4) Members are familiar with the operations of the mine.	49.20(a)(1)
(5) Members are knowledgeable about the operations and ventilation of the mine.	49.20(b)(2)(ii) 49.20(b)(3)(i) 49.30
(6) Members are properly trained.	49.18
(7) Members participate in mine rescue training at the mine.	49.20(b)(1) 49.20(b)(2)(iii) 49.20(b)(3)(ii) 49.20(b)(4) 49.30

TABLE 49.50.—CRITERIA TO CERTIFY THE QUALIFICATIONS OF MINE RESCUE TEAMS—Continued

Qualification	Criteria (30 CFR)
(8) Members participate in at least two mine rescue contests annually.	49.20(a)(2)
(b) Team Availability	
(1) Team is available at all times when miners are underground.	49.12(a)
(2) Team is available within 1-hour ground travel time from the mine rescue station to the mine.	49.12(f)
(c) Team Equipment	
Appropriate mine rescue equipment is provided, inspected, tested, and maintained.	49.16

§ 49.60 Requirements for a local mine rescue contest.

(a) A local mine rescue contest is one that—

(1) Is conducted in the United States;

(2) Uses MSHA-recognized rules;

(3) Has a minimum of three mine rescue teams competing;

(4) Includes team members who—

(i) Have the necessary equipment to participate in a simulated mine rescue team exercise,

(ii) Participate in a simulated mine rescue team exercise while being timed and observed by trained judges who evaluate the performance of each team and provide written feedback, and

(iii) Wear oxygen breathing apparatus while participating in a realistic simulation rescue exercise; and

(5) Includes contest judges who have completed annual training for mine rescue contest judges.

(b) Upon request from the District Manager, the operator shall provide information concerning the schedule of upcoming mine rescue contests.

(c) Other training that provides equivalent skills development can substitute for participation in a local mine rescue contest. Examples include a Mine Emergency Response Development (MERD) drill or an equivalent realistic simulation exercise, such as fire and explosion drills, where the team participates in simulated mine rescue team exercises and wears breathing apparatus.

Appendix to Part 49 Subpart B: Optional Forms for Certifying Mine Rescue Teams.

BILLING CODE 4510–43–P

OPERATOR'S CERTIFICATION OF MINE RESCUE TEAM QUALIFICATIONS

I certify the following is true and accurate to the best of my knowledge. Printed Name & Signature: Date: Position held at the mine:						
MSHA Mine ID No.:	Contractor ID No.:			Company Name:		
Mine Name:	Mine Address:					
Team Name:			Type of Team:	O Mine-site O Composite O Contract O State-sponsored		
O Mine Rescue Station within 1-hour ground travel time to the mine § 49.12(f). Address of Mine Rescue Station:				O Team available at all times when miners underground § 49.12(a).		O Station properly equipped § 49.16.
Name of Team Member:						
Where Employed: Mine or Employer Name & Address						
Check if applicable.	O State Employee	O State Employee	O State Employee	O State Employee	O State Employee	O State Employee
Physically fit: § 49.17	O	O	O	O	O	O
Experience working in an underground coal mine: § 49.12(c)	O	O	O	O	O	O
Familiar with operations of mine: § 49.20(a)(1)	O	O	O	O	O	O
Knowledgeable about operations & ventilation of mine: §§ 49.20(b) or 49.30	O	O	O	O	O	O
Properly Trained: § 49.18 *Check all applicable circles.*	O Initial 20 hr. O Refresher training totals 64 hr or more.	O Initial 20 hr. O Refresher training totals 64 hr or more.	O Initial 20 hr. O Refresher training totals 64 hr or more.	O Initial 20 hr. O Refresher training totals 64 hr or more.	O Initial 20 hr. O Refresher training totals 64 hr or more.	O Initial 20 hr. O Refresher training totals 64 hr or more

1. 8 hr training every 2 mos.	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec
2. Training session underground every 6 mos.	O Jan-Jun O Jul-Dec	O Jan-Jun O Jul-Dec	O Jan-Jun O Jul-Dec	O Jan-Jun O Jul-Dec	O Jan-Jun O Jul-Dec	O Jan-Jun O Jul-Dec
3. Using apparatus 2 hr every 2 mos.	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec	O Jan-Feb O Mar-Apr O May-Jun O Jul-Aug O Sep-Oct O Nov-Dec
4. Training on auxiliary equipment or different apparatus.	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable
5. Advanced training & procedures.	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable	O Yes O No O Not Applicable
6. Mine maps & ventilation.	O	O	O	O	O	O
7. Wearing apparatus in smoke or equivalent.	O	O	O	O	O	O
Trains at this mine: §§ 49.20(b) & 49.30 (Insert dates)						
Takes part in two local mine rescue contests: § 49.20 (a)(2) (Insert dates)						

MSHA Form No. _____

OMB Control No. _____

BILLING CODE 4510–43–C

PART 75—[AMENDED]

6. The authority for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

7. Amend § 75.1501 by revising paragraph (a) to read as follows:

§ 75.1501 Emergency evacuations.

(a) For each shift that miners work underground, there shall be in attendance a responsible person designated by the mine operator to take charge during mine emergencies involving a fire, explosion or gas or water inundations.

(1) The responsible person shall have current knowledge of the assigned location and expected movements of miners underground, the operation of the mine ventilation system, the location of the mine escapeways, the mine communications system, any mine monitoring system if used, locations of firefighting equipment, the mine's Emergency Response Plan, the Mine Rescue Notification Plan, and the Mine Emergency Evacuation and Firefighting Program of Instruction.

(2) The responsible person shall be trained annually in mine emergency response. Training shall include knowledge in the following:

(i) Organizing a command center;

(ii) Directing firefighting personnel;

(iii) Deploying firefighting equipment;

(iv) Directing mine rescue personnel;

(v) Establishing fresh air base;

(vi) Deploying mine rescue teams;

(vii) Providing for mine gas sampling and analysis;

(viii) Establishing security;

(ix) Initiating an emergency mine evacuation;

(x) Contacting emergency personnel; and

(xi) Communicating appropriate information related to the emergency.

(3) The operator shall certify by signature and date after each responsible person has completed the training and keep the certification at the mine for 1 year.

* * * * *

[FR Doc. 07–4317 Filed 9–4–07; 12:30 pm]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 49

RIN 1219–AB56

Mine Rescue Team Equipment

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; notice of public hearings; close of comment period.

SUMMARY: This proposed rule would amend MSHA's existing standard addressing mine rescue team equipment at mine rescue stations serving underground coal and metal and nonmetal mines. MSHA proposes to amend the existing standard to reflect advances in mine rescue team equipment technology. The proposed amendments would increase safety and improve effectiveness of mine rescue teams.

DATES: All comments must be sent on or before November 9, 2007. MSHA will hold four public hearings on October 23, October 25, October 30, and November 1, 2007. Details about the public hearings are in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Comments must be clearly identified with ''RIN 1219–AB56'' and may be sent to MSHA by any of the following methods:

(1) *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

(2) *Electronic mail: zzMSHA-comments@dol.gov.* Include ''RIN 1219–AB56'' in the subject line of the message.

(3) *Facsimile:* 202–693–9441. Include ''RIN 1219–AB56'' in the subject line of the message.

(4) *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939.

(5) *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Stop at the 21st floor to sign in at the receptionist's desk and wait for an escort.

Information Collection Requirements: This proposed rule would not require any additional paperwork or information collection.

Docket: Comments can be accessed electronically at *http://www.msha.gov* under the *Rules and Regs* link. MSHA will post all comments on the Internet without change, including any personal information provided. Comments may also be reviewed at the Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia. Stop at the 21st floor to sign in at the receptionist's desk and wait for an escort.

Mailing List: MSHA maintains a list that enables subscribers to receive e-mail notification when rulemaking documents are published in the **Federal Register**. To subscribe, go to *http://www.msha.gov* under the *Mailing List* link.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, at *silvey.patricia@dol.gov* (internet e-mail), 202–693–9440 (voice), or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Introduction

The existing standards for mine rescue teams contained in 30 CFR part 49 apply to all underground mines. Part 49 contains requirements addressing three essential elements of effective mine rescue teams: (1) Ready availability; (2) proper equipment at mine rescue stations; and (3) basic levels of skills and training. This proposed rule would revise and update MSHA's existing standard in 30 CFR part 49 for mine rescue team equipment. It is critical that mine rescue team members be provided with the latest in protective equipment so they can safely and effectively carry out their mission.

Public Hearings

MSHA will hold four public hearings concerning the proposed rule. The hearings will begin at 2 p.m. and will be held as follows:

Date	Location	Contact
October 23, 2007, 2 p.m. to 6 p.m.	Little America Hotel, 500 South Main Street, Salt Lake City, UT 84101	801–596–5700
October 25, 2007, 2 p.m. to 6 p.m.	Four Points by Sheraton Lexington, 1938 Stanton Way, Lexington, KY 40511	859–259–1311
October 30, 2007, 2 p.m. to 6 p.m.	Charleston Civic Center, West Virginia Room 105, 200 Civic Center Drive, Charleston, WV 25301.	304–345–1500
November 1, 2007, 2 p.m. to 6 p.m.	Sheraton Birmingham Hotel, 2101 Richard Arrington Boulevard, North, Birmingham, AL 35203.	205–324–5000

MSHA has scheduled these hearings so that interested parties can also attend the public hearings on the Agency's mine rescue team proposed rule for underground coal mines, which will be held in the morning on the same dates and in the same locations.

The hearings will begin with an opening statement from MSHA, followed by an opportunity for members of the public to make oral presentations to the hearing panel. Requests to speak at a hearing should be made at least 5 days prior to the hearing date. Requests to speak may be made by telephone (202–693–9440), facsimile (202–693–9441), or mail (MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939). Any unallocated time at the end of each hearing will be made available to persons making same-day requests to speak.

The presiding official may limit presentations and exclude irrelevant or unduly repetitious material and questions to ensure the orderly progress of the hearings. The hearing panelists may ask questions of speakers. Speakers and other attendees may present written information to the MSHA panel for inclusion in the rulemaking record. MSHA will accept post-hearing written comments and data for the record from any interested party, including those not presenting oral statements, until the close of the comment period on November 9, 2007.

The hearings will be conducted in an informal manner. Formal rules of evidence and cross examination will not apply. MSHA will make transcripts of the hearings, post them on MSHA's Web site at *http://www.msha.gov,* and include them in the rulemaking record.

II. Statutory and Rulemaking Background

Historically, most coal and metal and nonmetal (M/NM) mine disasters have occurred as the result of underground fires or explosions. Mine rescue teams often place themselves in danger to save miners injured or trapped underground as the result of these events. As teams explore the affected mine, they may encounter fires, ground falls, explosions, and inadequate or no ventilation. During rescue and recovery activities, team members may have to re-establish ventilation controls, install or repair ground support, or extinguish fires to rescue trapped or injured miners. Mine rescue team members must be well trained and provided with technologically up-to-date equipment so they can safely and effectively perform mine rescue and recovery activities.

In accordance with section 115(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act), MSHA issued standards in 30 CFR part 49 for mine rescue teams at underground coal and M/NM mines (45 FR 47002; July 11, 1980). This proposed rule would update the mine rescue team equipment standard for M/NM and coal mine rescue teams. These proposed changes would increase safety and improve the effectiveness of mine rescue teams in responding to mine emergencies.

III. Background

Past disasters in underground M/NM and coal mines have occurred primarily due to fires or explosions, which caused mine rescue teams or trapped miners to encounter high concentrations of toxic gases or oxygen-deficient atmospheres, among other hazards. Typically, these emergencies cause methane and carbon monoxide concentrations to become elevated and oxygen levels to be depleted.

A. Hazardous Gaseous Conditions in Underground Mines

1. Methane

Methane is a colorless and odorless gas. Methane mixtures measuring between 5 percent and 15 percent in air are explosive. A flammable mixture of methane and air can be ignited by electric arcs and sparks, open flames, or friction between the cutting bits of mining equipment and rock. Methane gas can produce suffocation by reducing the concentration of oxygen in the atmosphere. Methane gas can be found in certain M/NM mines that extract and process trona, salt, or petroleum, and in underground coal mines.

Underground M/NM mines classified in accordance with § 57.22003 as I–A, II–A, III, and V–A are capable of producing methane gas in explosive concentrations and are commonly referred to as ''gassy'' mines. Underground M/NM mines classified under § 57.22003 as I–B, I–C, II–B, IV, V–B, and VI are commonly referred to as ''non-gassy'' mines.

Currently, eight underground M/NM mines, classified under § 57.22003 as II–A, III, and V–A, are ''gassy'' mines. There are no active underground M/NM mines currently classified as I–A. Existing regulations in 30 CFR part 57 subpart T for these four categories of M/NM ''gassy'' mines require underground equipment to be approved, examinations for methane to be conducted at specified intervals, and the use of MSHA-approved monitoring or remote sensing devices.

Generally, underground coal mines produce high concentrations of methane. Existing regulations in 30 CFR part 75 for underground coal mines require underground equipment to be approved, examinations for methane to be conducted at specified intervals, and the use of MSHA-approved monitoring or remote sensing devices.

2. Carbon Monoxide

Carbon monoxide is a toxic, colorless, and odorless gas. Fires and explosions typically produce high concentrations of carbon monoxide. Exposure to moderate concentrations of carbon monoxide can result in angina, impaired vision, reduced brain function, disorientation, severe headaches, dizziness, or faintness. Exposure to high concentrations of carbon monoxide can be fatal. Effects of carbon monoxide exposure vary greatly from person to person depending on age and overall health, as well as the gas concentration and length of exposure. Existing M/NM and coal standards require that personal exposures to carbon monoxide not exceed a time-weighted average of 50 parts per million (ppm) over an 8-hour workday.

3. Oxygen Deficiency

Oxygen deficient atmospheres can be fatal, depending on the concentration. Oxygen depletion requires two factors to produce a hazardous condition—oxidation to consume oxygen from the surrounding air, such as occurs during a fire or explosion, and an inadequate supply of incoming fresh air to replace oxygen that has been consumed. Oxygen deficiency can also occur when it is displaced by another gas, such as methane. Noticeable symptoms, such as faster and deeper breathing, dizziness, rapid heart beat, and headache occur when air contains about 15 percent oxygen or less. Unconsciousness and death may occur when less than 11 percent oxygen is present. Existing MSHA standards require that at least 19.5 percent oxygen by volume be maintained in all underground work and travel areas.

B. Single and Multi-Gas Detectors

Some single and multi-gas detectors currently in mine rescue stations serving underground coal and M/NM mines cannot measure methane concentrations above 5 percent of volume, its lower explosive limit (LEL), or fail when exposed to methane concentrations exceeding the LEL. Other detectors cannot measure high concentrations of carbon monoxide. A gas detector that does not or cannot function in the high toxic gas

concentrations that are typically found in underground M/NM or coal mines after an explosion or fire would leave a mine rescue team without a means to measure gas concentrations and make informed decisions while working in a hazardous environment.

Recent accidents in underground coal mines highlight the need for mine rescue teams to be equipped with gas detectors capable of measuring elevated concentrations of hazardous gases, particularly methane and carbon monoxide, during rescue and recovery activities. For example, elevated concentrations of methane, which exceeded the LEL of methane, were found after explosions at the Willow Creek mine in June 2000 and the Jim Walters No. 5 mine in September 2001. Fifteen miners died as the result of those accidents. In addition, high concentrations of carbon monoxide exceeding the measurement capability of ''low range'' detectors were found during initial exploration activities by mine rescue teams at the Aracoma Alma No. 1 fire in January 2006, which resulted in the death of two miners. These high concentrations of carbon monoxide are also likely during and following uncontrolled fires at M/NM mines.

Multi-gas detectors are instruments that contain from two to four sensor heads. Depending on the type and model selected, different sensors can be chosen to measure specific gases and concentration ranges, based on specific mining conditions. Single-gas and multi-gas detectors are readily available to measure methane concentrations to 100 percent of volume, oxygen to at least 20 percent of volume, and carbon monoxide to at least 10,000 ppm.

MSHA approves gas detectors as intrinsically safe for use in underground coal and ''gassy'' M/NM mines. MSHA-approved, handheld, single and multi-gas detectors are currently available from a variety of manufacturers.

IV. Section-by-Section Analysis

MSHA's existing standards require mine rescue stations for underground mines to stock enough equipment for two mine rescue teams and supplies to maintain this equipment. This mine rescue team equipment proposed rule would—

- Upgrade requirements for self-contained breathing apparatus (SCBA) at coal and M/NM mine rescue stations;
- Increase the required number of oxygen bottles;
- Increase the amount of liquid air, liquid oxygen, pressurized oxygen, or oxygen generating chemicals, and carbon dioxide absorbent chemicals to maintain SCBAs for a longer period of time;
- Require mine rescue stations to be equipped with four gas detectors appropriate for each gas which may be encountered at the mines served and measure specified gases at specified concentrations;
- Delete requirements for certain equipment due to advances in gas detector technology;
- Make non-substantive amendments to clarify existing standards; and
- Make organizational changes to provide separate standards for M/NM mines and coal mines.

MSHA requests comment on whether an oxygen resuscitator should be provided at the mine rescue station for use by the mine rescue team. In the past, mine rescue teams have relied on SCSRs or SCBAs to revive or help survivors breathe during rescue operations following mine fires or explosions. Use of SCSRs as resuscitators requires the patient to breathe into the SCSR. This process has been shown to be inefficient and may require multiple SCSRs. The other alternative currently available to mine rescue teams is to use a spare mine rescue SCBA, which weighs over 30 pounds. Lightweight oxygen resuscitators, weighing about 6 pounds with the oxygen bottle, are now available through at least one manufacturer.

MSHA requests comment on all of the equipment changes in this proposed rule.

A. Section 49.6 Equipment and Maintenance Requirements for Metal and Nonmetal Mine Rescue Stations

1. Section 49.6(a)(1)

MSHA is proposing to amend existing § 49.6(a)(1) to require mine rescue stations to be equipped with 4-hour self-contained breathing apparatus (SCBA), rather than 2-hour SCBAs. MSHA would also change the phrase ''self-contained oxygen breathing apparatus'' to ''self-contained breathing apparatus,'' so the revised language would be consistent with terminology currently used in the mining industry.

Existing § 49.6(a)(1) requires that mine rescue stations be provided with 12 self-contained oxygen breathing apparatus (SCBA), each with a minimum 2-hour capacity, and associated testing equipment. The existing standard also requires that the apparatus be approved by MSHA and the National Institute for Occupational Safety and Health (NIOSH) under 42 CFR part 84 subpart H. Approved 1- and 2-hour SCBAs were used for mine rescue activities in 1980 when MSHA promulgated the mine rescue standards in 30 CFR part 49.

MSHA recently conducted a survey of SCBAs located at M/NM mine rescue stations. The Agency determined that all stations are already equipped with MSHA and NIOSH approved 4-hour SCBAs. There are currently no 2-hour SCBAs manufactured for mine rescue applications, which use oxygen, and which are approved by MSHA and NIOSH under 42 CFR part 84 subpart H. MSHA concludes, therefore, that there would be no cost associated with this provision.

This revision updates the rule to reflect current industry practice. Mine rescue teams equipped with 4-hour SCBAs can spend double the amount of time underground engaged in rescue and recovery activities. The higher capacity SCBAs raise team effectiveness and assist in locating injured or trapped miners more quickly, detecting and extinguishing mine or equipment fires, finding and repairing ventilation impairments or stoppages, and determining the location and extent of hazardous mine damage, such as roof falls. The 4-hour SCBAs allow fewer team rotations so team members get more rest before they have to reenter a mine to continue rescue or recovery activities.

2. Section 49.6(a)(2)

MSHA is proposing to amend existing § 49.6(a)(2) to require that supplies of liquid air, liquid oxygen, pressurized oxygen, or oxygen generating chemicals, and carbon dioxide absorbent chemicals be maintained at M/NM mine rescue stations sufficient to sustain each team for 8 hours during rescue operations. Existing § 49.6(a)(2) requires mine rescue stations to be provided with sufficient supplies to sustain each team for 6 hours during rescue operations.

MSHA believes that these supplies should be increased from 6 hours to 8 hours. The 2-hour increase in supplies would assure that mine rescue stations would be equipped with sufficient reserves of critical SCBA components for two complete replenishments of discharged SCBAs. An additional 2-hour supply would increase the safety and effectiveness of the mine rescue team and would be consistent with the requirement for 4-hour SCBAs.

Because the industry practice is to stock these supplies in bulk, MSHA estimates that there are no costs associated with this requirement. MSHA requests comment on this estimate.

3. Section 49.6(a)(3)

MSHA is proposing to amend existing § 49.6(a)(3) to require M/NM mine

rescue stations to be equipped with two extra, fully-charged oxygen bottles for every six SCBA at the station. The existing standard requires one extra, fully-charged oxygen bottle for every six SCBAs.

MSHA believes that two extra oxygen bottles for every six SCBAs would assure an adequate reserve of a critical component for mine rescue teams during time-sensitive rescue or recovery operations. An additional reserve supply of oxygen would also enhance the team's safety during an emergency.

4. Section 49.6(a)(4) and (a)(5)

The proposed rule would make no changes to existing § 49.6(a)(4) and (a)(5) for M/NM mines.

5. Section 49.6(a)(6)

MSHA is proposing to amend existing § 49.6(a)(6) to require mine rescue stations serving underground M/NM mines to have four gas detectors appropriate for each gas which may be encountered at the mines served. For methane, carbon monoxide, and oxygen deficiency, the proposal would require that the gas detectors must be able to measure methane concentrations from 0 percent to 100 percent of volume, oxygen from 0 percent to at least 20 percent of volume, and carbon monoxide from 0 ppm to at least 10,000 ppm.

Existing § 49.6(a)(6) requires mine rescue stations to be provided with two gas detectors appropriate for each gas which may be encountered at the mines served. The existing rule does not specify the type of detector or gases to be detected, leaving this decision to the discretion of mine operators, based on specific conditions that might be encountered in an emergency. The existing rule also does not require selected detectors to measure a specific concentration of any gas. On more than one occasion, not having the equipment to measure high concentrations of one or more critical gases has hindered the collection of vital information. Mine rescue team members have had to delay entering the mine until equipment was located to measure the gases' concentrations and the team was able to evaluate the danger.

It has been MSHA's experience that the number of gas detectors used in an underground emergency can vary depending on the needs of the individual mine rescue teams and conditions present at the mine. Mine rescue stations are typically equipped with two gas detectors for each gas that may be encountered at the mines served. Team safety and effectiveness would be better assured, however, if mine rescue stations were equipped with four gas detectors, two per mine rescue team, for each gas that may be encountered at the mines served so each team would be equipped with a backup device. Re-charging gas detectors and checking their calibration between rotations can delay rescue or recovery activities.

Mine rescue teams serving M/NM mines generally would need gas detectors capable of measuring oxygen and carbon monoxide. A handheld, multi-gas detector would enable mine rescue teams to accurately and simultaneously measure the concentrations of relevant mine gases, such as carbon monoxide, methane, and oxygen, which would increase trapped miners'' chance of survival in time-sensitive emergency situations. Real-time information regarding hazardous gas concentrations allows affected team members to make better informed and more timely decisions regarding when to don protective equipment, and enter or exit a mine.

6. Section 49.6(a)(7)

Existing section 49.6(a)(7) requires M/NM mine rescue stations to be provided with two oxygen indicators or flame safety lamps. In September 1998, MSHA deleted its approval regulations for flame safety lamps. MSHA had not received a new approval application for a flame safety lamp for 40 years prior to that time. Advances in technology have resulted in oxygen and methane detectors that are more accurate and reliable than flame safety lamps or oxygen indicators. As a result, methane and oxygen gas detectors have replaced flame safety lamps and oxygen indicators as the preferred instruments for detecting these gases in mines. Further, gas detectors can measure over a wider concentration range and more accurately than flame safety lamps and oxygen indicators. This proposal would remove and reserve existing § 49.6(a)(7) because the equipment required by this provision has been replaced by technologically advanced devices.

While flame safety lamps or other suitable devices can be used to satisfy the requirements of § 57.8527 in all underground M/NM mines, existing § 57.22227 does not permit flame safety lamps to be used as the primary device to test for methane in gassy M/NM mines.

7. Section 49.6(a)(8)

MSHA is proposing organizational changes to existing § 49.6(a)(8), which requires that mine rescue team equipment include a communication system. The proposed rule would re-number the existing provisions, but would make no changes to the substantive requirements.

8. Section 49.6(a)(9)

The proposed rule would make no changes to existing § 49.6(a)(9) for M/NM mines.

9. Section 49.6(b)

MSHA is proposing organizational changes to existing § 49.6(b), which requires that mine rescue team equipment be maintained in a manner that will ensure readiness for immediate use. The proposed rule would re-number the existing provisions, but would make no changes to the substantive requirements.

B. Section 49.16 Equipment and Maintenance Requirements for Coal Mine Rescue Stations

MSHA is proposing to add § 49.16 for underground coal mine rescue team equipment and maintenance requirements. The provisions are based on existing § 49.6.

1. Section 49.16(a)

Proposed § 49.16(a), which is derived from existing § 49.6(a), would require each mine rescue station to be provided with certain equipment. It would also allow mine rescue stations serving certain underground anthracite coal mines to have the type and amount of equipment that would be appropriate for the number of their mine rescue team members. This option allows mine rescue stations associated with mine rescue teams having a reduced number of members to maintain fewer SCBAs, cap lamps, and chargers than required under §§ 49.16(a)(1) and (a)(5) for other coal mine rescue stations.

As a result of petitions for modification granted under section 101(c) of the Mine Act, mine rescue teams for underground anthracite coal mines, having no electrical equipment at the face or working section, are composed of three members with one alternate to serve both teams. Given these smaller teams, anthracite operators submitted petitions for modification requesting that their mine rescue stations be allowed to maintain eight SCBAs, eight cap lamps, and a charging station, rather than 12 of each as required by existing §§ 49.6(a)(1) and (a)(5). Because of the existing petitions for modification, MSHA concludes that there would be no cost savings associated with this provision.

MSHA investigated each petition and made the following finding:

MSHA's investigation found that reducing the quantity of equipment required to be

purchased and maintained at the anthracite mine rescue station to a quantity consistent with the requirements of granted modifications currently in effect, which allow anthracite mines to be covered by two mine rescue teams of three members each and an alternate, will provide the same measure of protection to the miners.

On the basis of those investigations, MSHA granted these petitions for modification of §§ 49.6(a)(1) and (a)(5). Currently, 11 underground anthracite coal mines operate under this approved alternative method. The reduced number of SCBAs and cap lamps would provide sufficient equipment for teams serving these anthracite coal mines.

2. Section 49.16(a)(1)

Proposed § 49.16(a)(1), which is derived from existing § 49.6(a)(1), would require that mine rescue stations serving underground coal mines be equipped with 12 SCBAs, each with a minimum 4-hour capacity, and associated testing equipment. The proposed standard would require that the apparatus be approved by MSHA and NIOSH under 42 CFR part 84 subpart H. MSHA would also change the phrase ''self-contained oxygen breathing apparatus'' to ''self-contained breathing apparatus,'' so the revised language would be consistent with terminology currently used in the mining industry.

MSHA recently conducted a survey of SCBAs at coal mine rescue stations. The Agency determined that all rescue stations are already equipped with MSHA and NIOSH approved 4-hour SCBAs. There are currently no 2-hour SCBAs manufactured for mine rescue applications, which use oxygen, and which are approved by MSHA and NIOSH under 42 CFR part 84 subpart H. MSHA concludes, therefore, that there would be no cost associated with this provision.

This revision updates the rule to reflect current industry practice. Mine rescue teams equipped with 4-hour SCBAs can spend double the amount of time underground engaged in rescue and recovery activities. The higher capacity SCBAs raise team effectiveness and assist in locating injured or trapped miners more quickly, detecting and extinguishing mine or equipment fires, finding and repairing ventilation impairments or stoppages, and determining the location and extent of hazardous mine damage, such as roof falls or collapsed seals. The 4-hour SCBAs allow fewer team rotations so team members get more rest before they have to reenter a mine to continue rescue or recovery activities.

3. Section 49.16(a)(2)

Proposed § 49.16(a)(2), which is derived from existing § 49.6(a)(2), would require coal mine rescue stations to maintain supplies of liquid air, liquid oxygen, pressurized oxygen, or oxygen generating chemicals, and carbon dioxide absorbent chemicals at coal mine rescue stations sufficient to sustain each team for 8-hours during rescue operations. Existing § 49.6(a)(2) requires mine rescue stations to be provided with sufficient supplies to sustain each team for 6 hours during rescue operations.

MSHA believes that these supplies should be increased from 6 hours to 8 hours because rescue and recovery operations are time sensitive. The 2-hour increase in supplies would assure that mine rescue stations would be equipped with sufficient reserves of critical SCBA components for two complete replenishments of discharged SCBAs. An additional 2-hour supply would increase the safety and effectiveness of the mine rescue team and would be consistent with the requirement for 4-hour SCBAs.

Because the industry practice is to stock these supplies in bulk, MSHA estimates that there are no costs associated with this requirement. MSHA requests comment on this estimate.

4. Section 49.16(a)(3)

Proposed § 49.16(a)(3), which is derived from existing § 49.6(a)(3), would require coal mine rescue stations to be equipped with two extra, fully-charged, oxygen bottles for every six SCBA at the station. The existing standard requires one extra, fully-charged, oxygen bottle for every six SCBAs.

MSHA believes that two extra oxygen bottles for every six SCBAs would assure an adequate reserve of a critical component for mine rescue teams during time-sensitive rescue or recovery operations. An additional reserve supply of oxygen would also enhance team safety in these critical emergency situations. The costs associated with this provision are discussed later in the Preliminary Regulatory Economic Analysis section of this preamble.

5. Section 49.16(a)(4)

Proposed § 49.16(a)(4), which is derived from existing § 49.6(a)(4), would make no change from the existing standard.

6. Section 49.16(a)(5)

Proposed § 49.16(a)(5), which is derived from existing § 49.6(a)(5), would make no change from the existing standard.

7. Section 49.16(a)(6)

Proposed § 49.16(a)(6), which is derived from existing § 49.6(a)(6), would require mine rescue stations serving underground coal mines to be equipped with four gas detectors appropriate for each gas which may be encountered at the mines served. For methane, carbon monoxide, and oxygen deficiency, the proposal would specify that the gas detectors must be able to measure methane concentrations from 0 percent to 100 percent of volume, oxygen from 0 percent to at least 20 percent of volume, and carbon monoxide from 0 ppm to at least 10,000 ppm.

Existing § 49.6(a)(6) requires mine rescue stations to be provided with two gas detectors appropriate for each gas which may be encountered at the mines served. The existing rule does not specify the type of detector or gases to be detected, leaving this decision to the discretion of mine operators. The existing rule also does not require selected detectors to measure a specific concentration of any gas. On more than one occasion, not having the equipment to measure high concentrations of one or more critical gases has hindered the collection of vital information. Mine rescue team members have had to delay entering the mine until equipment was located to measure the gases' concentrations and the team was able to evaluate the danger.

It has been MSHA's experience that the number of gas detectors used in an underground emergency can vary depending on the needs of the individual mine rescue teams and conditions present at the mine. Mine rescue stations are typically equipped with two gas detectors. Based on MSHA's experience, elevated concentrations of hazardous gases such as high concentrations of methane and carbon monoxide are generally found in underground coal mines, especially following a fire or explosion. Team safety and efficiency would be better assured, however, if mine rescue stations were equipped with four gas detectors, two per mine rescue team, for each gas that may be encountered at the mines served so each team would be equipped with a backup device. Re-charging gas detectors and checking their calibration between rotations can delay rescue or recovery activities.

Mine rescue teams serving coal mines generally would need gas detectors capable of measuring oxygen, methane, and carbon monoxide. Multi-gas detectors, which are capable of measuring higher concentrations of methane and carbon monoxide, and lower concentrations of oxygen, would

provide greater protection to rescue team members.

An approved, handheld, multi-gas detector would enable mine rescue teams to accurately and simultaneously measure the relevant concentrations of critical mine gases, such as carbon monoxide, methane, and oxygen, which would increase their chance of survival in time-sensitive emergency situations. Up-to-date information regarding hazardous gas concentrations allows affected team members to make better informed and more timely decisions regarding when to don protective equipment, and enter or exit a mine. Costs associated with this requirement are discussed later in the Preliminary Economic Analysis section of this preamble.

8. Section 49.16(a)(7)

The proposed rule would reserve § 49.16(a)(7) because the proposed rule would remove the existing provision.

9. Section 49.16(a)(8)

Proposed § 49.16(a)(8), which is derived from existing § 49.6(a)(8), would require that mine rescue team equipment include a communication system. The proposed rule would re-number the existing provisions, but would make no substantive changes to the existing requirements.

10. Section 49.16(a)(9)

Proposed § 49.16(a)(9), which is derived from existing § 49.6(a)(9), would make no change to the existing standard.

11. Section 49.16(b)

Proposed § 49.16(b), which is derived from existing § 49.6(b), would require that mine rescue team equipment be maintained in a manner that will ensure readiness for immediate use. The proposed rule would re-number the existing provisions, but would make no changes to the substantive requirements.

V. Preliminary Regulatory Economic Analysis

A. Executive Order 12866

Executive Order (E.O.) 12866 (58 FR 51735) as amended by E.O. 13258 (Amending Executive Order 12866 on Regulatory Planning and Review (67 FR 9385)) requires that regulatory agencies assess both the costs and benefits of regulations. E.O. 12866 classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it has an annual effect on the economy of $100 million or more; creates a serious inconsistency or interferes with an action of another agency; materially alters the budgetary impact of entitlements or the rights of entitlement recipients; or raises novel legal or policy issues. MSHA has determined that the proposed rule would not have an annual effect of $100 million or more on the economy and that, therefore, it is not an economically ''significant regulatory action'' pursuant to section 3(f) of E.O. 12866. MSHA, however, has concluded that the proposed rule is ''otherwise significant'' under E.O. 12866 because it raises novel legal or policy issues.

B. Population-at-Risk

The proposed rule would apply to 653 underground coal mines and 240 underground M/NM mines, using 2006 data. It would cover 42,597 coal miners, 14,323 M/NM miners, and 13,940 coal and M/NM (non-office) contractors working in these mines.

C. Compliance Costs

MSHA estimates that the total yearly cost of the proposed rule would be $426,464. Of that total, an estimated $57,630 would be attributable to State and local governments that maintain mine rescue stations. The remaining $368,834 would be attributable to mine operators as follows: $237,437 for coal operator-owned mine rescue stations and $131,397 for M/NM operator-owned mine rescue stations. The derivation of these cost estimates is described below.

Proposed § 49.16(a) would allow mine rescue stations serving certain underground anthracite coal mines to have the type and amount of equipment that would be appropriate for the number of their mine rescue team members. This option allows mine rescue stations associated with mine rescue teams having a reduced number of members to maintain fewer SCBAs, cap lamps, and chargers than required under §§ 49.16(a)(1) and (a)(5) for other coal mine rescue stations. Because existing petitions for modification include this reduced equipment, MSHA estimates that there would be no cost savings associated with this provision.

Proposed §§ 49.6(a)(1) and 49.16(a)(1) would require that mine rescue stations serving underground M/NM and coal mines, respectively, be equipped with 12 SCBAs, each with a minimum 4-hour capacity, and associated testing equipment. Because MSHA has determined that all mine rescue stations serving M/NM and coal mines are already equipped with MSHA and NIOSH approved 4-hour SCBAs, the Agency estimates that there would be no cost associated with this requirement.

Proposed §§ 49.6(a)(2) and 49.16(a)(2) would require mine rescue stations serving either underground coal or underground M/NM mines to increase their supply of liquid air, liquid oxygen, pressurized oxygen, or oxygen generating chemicals, and carbon dioxide absorbent chemicals from 6 hours to 8 hours. Because the industry practice is to stock these supplies in bulk, MSHA estimates that there are no costs associated with these requirements. MSHA requests comments on this estimate.

Proposed §§ 49.6(a)(3) and 49.16(a)(3) would require that two additional fully-charged oxygen cylinders be provided for every six self-contained breathing apparatus. To meet these requirements, each mine rescue station would have to purchase two oxygen cylinders. MSHA estimates that the cost for two oxygen cylinders is $3,225 and that their service-life is 15 years.

Proposed §§ 49.6(a)(6) and 49.16(a)(6) would require all mine rescue stations serving underground coal mines or underground M/NM mines to be equipped with four gas detectors appropriate for each type of gas that may be encountered at the mines served. Gas detectors must measure concentrations of methane from 0.0 percent to 100 percent of volume, oxygen from 0.0 percent to at least 20 percent of volume, and carbon monoxide from 0.0 parts per million to at least 10,000 parts per million.

MSHA estimates that mine rescue stations would be equipped with multi-gas detectors, rather than multiple single-gas detectors; that the cost for four multi-gas detectors is approximately $8,000; and that their service life is 5 years. MSHA requests comment on the Agency's cost estimates. MSHA is particularly interested in comment on its assumption that all mine rescue stations, including those serving non-gassy M/NM mines, would need to be equipped with multi-gas detectors rather than single gas detectors.

MSHA is proposing to delete paragraphs §§ 49.6(a)(7) and 49.16(a)(7), requiring mine rescue stations to be equipped with either two oxygen indicators or two flame safety lamps. MSHA believes that most mine rescue stations have already replaced flame safety lamps and oxygen indicators with new, more accurate, technologically advanced devices. For this reason, MSHA has associated no economic impact with the removal of these paragraphs.

Table I summarizes the total yearly cost of this proposed rule.

Table I: Total Yearly Cost of the Proposed Rule

Mine Size	# of Mine Rescue Stations Serving Underground Coal Mines[a]	Total # of Mine Rescue Stations Serving Underground M/NM Mines	Annualized Cost per Mine Rescue Station for Two Oxygen Cylinders[b]	Annualized Cost per Mine Rescue Station for Four Multi-Gas Detectors[c]	Total Annualized Cost[d]
1-19	19	2	$354	$1,951	$48,409
20-500	71	50	$354	$1,951	$278,931
501+	13	5	$354	$1,951	$41,494
Government[e]	17	8	$354	$1,951	$57,630
Total	120	65			$426,464

[a] Estimates based on 92 existing mine rescue stations plus an additional 28 mine rescue stations in response to the proposed rule on mine rescue teams.

[b] Annualized cost per mine rescue station for two oxygen cylinders (§ 49.6(a)(3) and § 49.16(a)(3)) = (F x a) , where F is the cost for two oxygen cylinders (F= $3,225); and a is the associated annualization factor for the two oxygen cylinders with a 15-year-service life (a=11%).

[c] Annualized cost for four multi-gas detectors = (C x a), where C is the total cost for four multi-gas detectors (C=$8,000); a is the associated annualization factor for the four multi-gas detectors with a five-year-service life (a=24.4%).

[d] Total yearly cost = [(total # of mine rescue stations serving undeground coal mines + total # of mine rescue stations serving underground M/NM mines) x (annualized cost per mine for two oxygen cylinders + annualized cost per mine rescue station for four multi-gas detectors)].

[e] Government-owned mine rescue stations serving underground coal mines include 14 State, 1 county, and 2 public colleges. Government-owned mine rescue stations serving underground M/NM mines include 2 Federal and 6 county. Some of the mine rescue stations listed as serving underground coal mines also serve some underground M/NM mines.

D. Benefits

The purpose of this proposed rule is to improve and enhance the equipment for mine rescue teams who must respond to an emergency at an underground mine. Mine operators often rely on mine rescue teams to save miners during an underground emergency such as an explosion, fire, roof fall, or water inundation. Mine rescue team members often put themselves in danger to save miners injured or trapped underground as the result of these events. To help them to conduct mine rescue and recovery activities safely and effectively, they must be provided with up-to-date mine rescue equipment. In an emergency, a properly equipped mine rescue team could mean the difference between life and death.

VI. Feasibility

MSHA has concluded that the requirements of the proposed rule are technologically and economically feasible.

A. Technological Feasibility

The proposed rule is technologically feasible because all mine rescue team equipment required in this proposal is commercially available and in use in many mines. In addition, the proposed rule is not technology-forcing and does not involve activities on the frontiers of scientific knowledge.

B. Economic Feasibility

The total cost of the proposed rule is approximately $237 thousand annually for underground coal mine operators and $131 thousand annually for underground M/NM operators. These compliance costs are well under one percent of the annual revenues of $13.1 billion for underground coal mine operators and $5.8 billion for underground M/NM operators. MSHA concludes that the amount of these costs relative to annual operator revenues supports its finding that the proposed rule is economically feasible.

VII. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act

Pursuant to the Regulatory Flexibility Act (RFA) of 1980 as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), MSHA has analyzed the impact of the proposed rule on small businesses. Further, MSHA has made a determination with respect to whether or not the Agency can certify that the proposed rule would not have a significant economic impact on a substantial number of small entities that are covered by this rulemaking. Under the SBREFA amendments to the RFA, MSHA must include in the rule a factual basis for this certification. If a rule has a significant economic impact on a substantial number of small entities, MSHA must develop a regulatory flexibility analysis.

A. Definition of a Small Mine

Under the RFA, in analyzing the impact of a rule on small entities, MSHA must use the Small Business Administration (SBA) definition for a small entity or, after consultation with the SBA Office of Advocacy, establish an alternative definition for the mining industry by publishing that definition in the **Federal Register** for notice and comment. MSHA has not taken such an action and, thus, is required to use the SBA definition. The SBA defines a small entity in the mining industry as an establishment with 500 or fewer employees.

MSHA has also looked at the impacts of Agency rules on a subset of mines with 500 or fewer employees—those with fewer than 20 employees, which MSHA and the mining community have traditionally referred to as ''small mines.'' These small mines differ from larger mines not only in the number of employees, but also in economies of scale in material produced, in the type and amount of production equipment, and in supply inventory. Therefore, their costs of complying with MSHA's rules and the impact of the Agency's rules on them will also tend to be different. It is for this reason that small mines employing fewer than 20 miners are of special concern to MSHA.

This analysis complies with the legal requirements of the RFA for an analysis of the impacts on small entities while continuing MSHA's traditional definition of small mines. The Agency concludes that it can certify that the proposed rule would not have a significant economic impact on a substantial number of small entities that are covered by this rulemaking. MSHA has determined that this is the case both for mines affected by this rulemaking with fewer than 20 employees and for mines affected by this rulemaking with 500 or fewer employees.

B. Factual Basis for Certification

MSHA's analysis of impacts on small entities begins with a screening analysis. The screening compares the estimated compliance costs of a rule for small entities in the sector affected by the rule to the estimated revenues for the affected sector. When estimated compliance costs or savings are less than one percent of the estimated revenues, the Agency believes it is generally appropriate to conclude that there is no significant economic impact on a substantial number of small entities. When estimated compliance costs or savings exceed one percent of revenues, it tends to indicate that further analysis may be warranted. MSHA has determined that the estimated costs are less than one percent of the estimated revenues for small entities covered by this proposed rule. Therefore, MSHA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

Coal mining revenues are derived from data on the price of coal and total coal production. Total underground coal production in 2006 was 359-million tons. The price of underground coal in 2005 was $36.42 per ton.[1] Thus, based on the total amount of coal production and the cost of coal per ton, the total estimated revenue in 2006 for underground coal production was $13.1 billion. Using the same approach, the estimated 2006 underground coal revenue by employment size category was approximately $0.3 billion for the 220 mines with 1–19 total employees and $10.1 billion for the 640 mines with 1–500 total employees.

For M/NM underground mines covered by the rule, the 2006 estimated revenue of $5.8 billion was divided by the total number of employee hours to arrive at the average revenue per hour of employee production of $176.63. This average hourly revenue was multiplied by employee hours in specific mine size categories to arrive at estimated revenues for these categories. This approach was used because MSHA does not collect mine-specific data on M/NM production or revenues. Using this approach, the 2006 revenues were estimated to be $0.3 billion for the 105 underground M/NM mines with 1–19 employees and $4.4 billion for the 235 underground M/NM mines with 1–500 employees.

When dividing the yearly compliance costs by the annual revenues in each mine size category, the yearly cost of the rule for underground coal mines and underground M/NM mines, both with 1–19 total employees and with 1–500 total employees, is well less than 0.01 percent of annual revenues. MSHA therefore concludes and certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities that are covered by the proposed rule.

VIII. Paperwork Reduction Act of 1995

The mine rescue team equipment proposed rule would require certification of inspection, testing, and any corrective action taken for breathing apparatus, as does the existing rule. MSHA estimates that any paperwork burden due to the proposed requirements would be de minimis and, therefore, has not included additional paperwork burden.

IX. Other Regulatory Considerations

A. The Unfunded Mandates Reform Act of 1995

MSHA has reviewed the proposed rule under the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*). The proposed rule would not increase private sector expenditures by more than $100 million annually; nor would it significantly or uniquely affect small governments. The proposed rule may result in increased expenditures by State, local, or tribal governments, however, because it places new requirements on equipment for mine rescue stations. These proposed changes would not directly affect States or their relationships with the national government; however, some mine rescue stations are State owned and equipped. In the spirit of the Unfunded Mandates Reform Act, MSHA specifically solicits comments on this proposed rule from State officials.

B. The Treasury and General Government Appropriations Act of 1999: Assessment of Federal Regulations and Policies on Families

This proposed rule would have no affect on family well-being or stability, marital commitment, parental rights or authority, or income or poverty of families and children. Accordingly, Section 654 of the Treasury and General Government Appropriations Act of 1999 (5 U.S.C. note) requires no further Agency action, analysis, or assessment.

[1] U.S. Dept. of Energy, Energy Information Administration, ''Annual Coal Report 2005,'' Table 28, October 2006.

C. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights

This proposed rule would not implement a policy with takings implications. Accordingly, E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, requires no further Agency action or analysis.

D. Executive Order 12988: Civil Justice Reform

This proposed rule was written to provide a clear legal standard for affected conduct and was carefully reviewed to eliminate drafting errors and ambiguities, so as to minimize litigation and undue burden on the Federal court system. Accordingly, this proposed rule would meet the applicable standards provided in Section 3 of E.O. 12988, Civil Justice Reform.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This proposed rule would have no adverse impact on children. Accordingly, E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks, as amended by E.O. 13229 and 13296, requires no further Agency action or analysis.

F. Executive Order 13132: Federalism

Executive Order (E.O.) 13132 requires MSHA to develop an accountable process to ensure a meaningful and timely input by State and local officials in the development of regulatory policies that have ''federalism implications.'' Policies that have federalism implications are defined as having ''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.'' The proposed rule would place new requirements on equipment for mine rescue stations. These proposed changes would not directly affect States or their relationships with the federal government. Although the proposed rule does not directly affect States, some mine rescue stations are State owned and equipped. Consistent with the spirit of E.O. 13132, MSHA specifically solicits comments on this proposed rule from State officials.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule would not have ''tribal implications'' because it would 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.'' Accordingly, E.O. 13175, Consultation and Coordination with Indian Tribal Governments, requires no further Agency action or analysis.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule has been reviewed for its impact on the supply, distribution, and use of energy because it applies to the underground coal mining sector. Insofar as this proposed rule would result in yearly costs of approximately $0.24 million to the underground coal mining industry, relative to annual revenues of $13.1 billion in 2006, it is not a ''significant energy action'' because it is not ''likely to have a significant adverse effect on the supply, distribution, or use of energy * * * (including a shortfall in supply, price increases, and increased use of foreign supplies).'' Accordingly, E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, requires no further Agency action or analysis.

List of Subjects in 30 CFR Part 49

Coal mines, Emergency equipment and maintenance, Emergency response services, Metal mines, Mine safety and health, Nonmetal mines, Underground mining.

Dated: August 29, 2007.

Richard E. Stickler,

Assistant Secretary for Mine Safety and Health.

For the reasons set out in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006, MSHA is proposing to amend chapter I of title 30 of the Code of Federal Regulations as follows:

PART 49—MINE RESCUE TEAMS

1. The authority for part 49 continues to read as follows:

Authority: 30 U.S.C. 811, 825(e), 957.

2. Amend § 49.6 as follows:

A. Revise the section heading.

B. In paragraph (a)(1), remove the phrase ''2 hours capacity'' and add in its place ''4 hour capacity''.

C. In paragraph (a)(1), remove the phrase ''self contained oxygen breathing apparatus'' and add in its place ''self-contained breathing apparatus''.

D. In paragraph (a)(2), remove the phrase ''oxygen generating or carbon dioxide absorbent chemicals, as applicable to the supplied breathing apparatus and sufficient to sustain each team for six hours'' and add in its place the phrase ''or oxygen generating chemicals, and carbon dioxide absorbent chemicals, as applicable to the supplied breathing apparatus and sufficient to sustain each team for 8 hours''.

E. Revise paragraph (a)(3).

F. Revise paragraph (a)(6).

G. Remove and reserve paragraph (a)(7).

H. Revise paragraph (a)(8).

I. Revise paragraph (b).

The revisions read as follows:

§ 49.6 Equipment and maintenance requirements for metal and nonmetal mine rescue stations.

(a) * * *

(3) Two extra, fully-charged oxygen bottles for every six self-contained breathing apparatus;

* * * * *

(6) Four gas detectors appropriate for each type of gas that may be encountered at the mines served. Gas detectors must measure concentrations of methane from 0.0 percent to 100 percent of volume, oxygen from 0.0 percent to at least 20 percent of volume, and carbon monoxide from 0.0 parts per million to at least 10,000 parts per million.

* * * * *

(8) One portable mine rescue communication system (approved under part 23 of this title) or a sound-powered communication system.

* * * * *

(b) Mine rescue apparatus and equipment shall be maintained in a manner that will ensure readiness for immediate use.

(1) A person trained in the use and care of breathing apparatus shall inspect and test the apparatus at intervals not exceeding 30 days and shall certify by signature and date that the inspections and tests were done.

(2) When the inspection indicates that a corrective action is necessary, the corrective action shall be made and the person shall record the corrective action taken.

(3) The certification and the record of corrective action shall be maintained at the mine rescue station for a period of one year and made available on request to an authorized representative of the Secretary.

(i) The wires or cable to the communication system shall be of sufficient tensile strength to be used as a manual communication system.

(ii) These communication systems shall be at least 1,000 feet in length.

3. Add § 49.16 to read as follows:

§ 49.16 Equipment and maintenance requirements for coal mine rescue stations.

(a) Each mine rescue station shall be provided with at least the following equipment. Mine rescue stations serving underground anthracite coal mines, which have no electrical equipment at the face or working section, shall have at least the amount of equipment appropriate for the number of mine rescue team members.

(1) Twelve self-contained breathing apparatus, each with a minimum of 4 hours capacity (approved by MSHA and NIOSH under 42 CFR part 84, subpart H), and any necessary equipment for testing such breathing apparatus.

(2) A portable supply of liquid air, liquid oxygen, pressurized oxygen, or oxygen generating chemicals, and carbon dioxide absorbent chemicals, as applicable to the supplied breathing apparatus and sufficient to sustain each team for 8 hours while using the breathing apparatus during rescue operations.

(3) Two extra, fully-charged oxygen bottles for every six self-contained breathing apparatus.

(4) One oxygen pump or a cascading system, compatible with the supplied breathing apparatus.

(5) Twelve permissible cap lamps and a charging rack.

(6) Four gas detectors appropriate for each type of gas that may be encountered at the mines served. Gas detectors must measure concentrations of methane from 0.0 percent to 100 percent of volume, oxygen from 0.0 percent to at least 20 percent of volume, and carbon monoxide from 0.0 parts per million to at least 10,000 parts per million.

(7) [Reserved].

(8) One portable mine rescue communication system (approved under part 23 of this title) or a sound-powered communication system.

(i) The wires or cable to the communication system shall be of sufficient tensile strength to be used as a manual communication system.

(ii) These communication systems shall be at least 1,000 feet in length.

(9) Necessary spare parts and tools for repairing the breathing apparatus and communication system.

(b) Mine rescue apparatus and equipment shall be maintained in a manner that will ensure readiness for immediate use.

(1) A person trained in the use and care of breathing apparatus shall inspect and test the apparatus at intervals not exceeding 30 days and shall certify by signature and date that the inspections and tests were done.

(2) When the inspection indicates that a corrective action is necessary, the corrective action shall be made and the person shall record the corrective action taken.

(3) The certification and the record of corrective action shall be maintained at the mine rescue station for a period of 1 year and made available on request to an authorized representative of the Secretary.

[FR Doc. 07–4318 Filed 9–4–07; 12:30 pm]

BILLING CODE 4510–43–P

Federal Register

Thursday,
September 6, 2007

Part V

The President

Presidential Determination No. 2007–29 of August 27, 2007—Assignment of Function Concerning Assistance to Afghanistan

Federal Register
Vol. 72, No. 172
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Presidential Documents

Title 3—

The President

Presidential Determination No. 2007–29 of August 27, 2007

Assignment of Function Concerning Assistance to Afghanistan

Memorandum for the Secretary of State[,] Director of National Drug Control Policy[, and the] Director of National Intelligence

By the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3, United States Code, the function of the President under the heading ''Economic Support Fund'' in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109–102)(the ''Act''), as carried forward by the Revised Continuing Appropriations Resolution, 2007 (Public Law 110–5), that relates to waiver of a provision is assigned to the Secretary of State. The Director of National Drug Control Policy and the Director of National Intelligence shall, consistent with applicable law, provide the Secretary of State with such information as may be necessary to assist the Secretary in the performance of such function.

Reference in this memorandum to the provision in the Act shall be deemed to include references to any provision of law that is the same or substantially the same as such provision.

The Secretary of State is authorized and directed to publish this memorandum in the **Federal Register**.

THE WHITE HOUSE,
Washington, August 27, 2007.

[FR Doc. 07–4374
Filed 9–5–07; 8:47 am]
Billing code 4710–10–P

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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. 2863/P.L. 110–75

To authorize the Coquille Indian Tribe of the State of Oregon to convey land and interests in land owned by the Tribe. (Aug. 13, 2007; 121 Stat. 724)

H.R. 2952/P.L. 110–76

To authorize the Saginaw Chippewa Tribe of Indians of the State of Michigan to convey land and interests in lands owned by the Tribe. (Aug. 13, 2007; 121 Stat. 725)

H.R. 3006/P.L. 110–77

To improve the use of a grant of a parcel of land to the State of Idaho for use as an agricultural college, and for other purposes. (Aug. 13, 2007; 121 Stat. 726)

S. 375/P.L. 110–78

To waive application of the Indian Self-Determination and Education Assistance Act to a specific parcel of real property transferred by the United States to 2 Indian tribes in the State of Oregon, and for other purposes. (Aug. 13, 2007; 121 Stat. 727)

S. 975/P.L. 110–79

Granting the consent and approval of the Congress to an interstate forest fire protection compact. (Aug. 13, 2007; 121 Stat. 730)

S. 1716/P.L. 110–80

To amend the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, to strike a requirement relating to forage producers. (Aug. 13, 2007; 121 Stat. 734)

Last List August 13, 2007

CORRECTION

In the last **List of Public Laws** printed in the *Federal Register* on August 13, 2007, H.R. 2025, Public Law 110-65, and H.R. 2078, Public Law 110-67, were printed incorrectly. They should read as follows:

H.R. 2025/P.L. 110–65

To designate the facility of the United States Postal Service located at 11033 South State Street in Chicago, Illinois, as the "Willye B. White Post Office Building". (Aug. 9, 2007; 121 Stat. 568)

H.R. 2078/P.L. 110–67

To designate the facility of the United States Postal Service located at 14536 State Route 136 in Cherry Fork, Ohio, as the "Staff Sergeant Omer T. 'O.T.' Hawkins Post Office". (Aug. 9, 2007; 121 Stat. 570)

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