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WHEN: Tuesday, March 18, 2008
9:00 a.m.–Noon

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

RESERVATIONS: (202) 741-6008



Contents

Federal Register

Vol. 73, No. 38

Tuesday, February 26, 2008

Agricultural Marketing Service

PROPOSED RULES

United States Standards for Grades of Table Grapes (European or Vinifera Type), 10185–10187

Agriculture Department

See Agricultural Marketing Service

See Animal and Plant Health Inspection Service

See National Agricultural Statistics Service

See Rural Telephone Bank

Animal and Plant Health Inspection Service

RULES

Brucellosis in Cattle; Research Facilities, 10137–10138

Centers for Disease Control and Prevention

NOTICES

Advisory Committee to the Director; Charter Renewal, 10248

Meetings:

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, 10248–10249

Centers for Medicare & Medicaid Services

NOTICES

Privacy Act; Systems of Records, 10249–10260

Children and Families Administration

See Refugee Resettlement Office

RULES

Chafee National Youth in Transition Database, 10338–10378

Commerce Department

See International Trade Administration

See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements

NOTICES

Request for Public Comment on Commercial Availability Request Under the U.S. Australia Free Trade Agreement, 10227–10228

Copyright Office, Library of Congress

NOTICES

Review of Copyright Royalty Judges Determination, 10290

Defense Department

See Navy Department

NOTICES

Disestablishment of Department of Defense Federal Advisory Committees, 10228

Establishment of Department of Defense Federal Advisory Committees, 10228–10229

Renewal of Department of Defense Federal Advisory Committees, 10229–10232

Education Department

NOTICES

Federal Student Aid Programs, 10233–10235

Employment and Training Administration

NOTICES

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the U.S.: 2008 Adverse Effect Wage Rates, etc., 10288–10290

Energy Department

See Federal Energy Regulatory Commission

Environmental Protection Agency

RULES

Approval and Promulgation of State Implementation Plans: Montana; Administrative Rules Revisions and Interstate Transport of Pollution, 10150–10154

PROPOSED RULES

Approval and Promulgation of Air Quality Implementation Plans:

Virginia; 8-Hour Ozone Maintenance Plan, White Top Mountain, Smyth County, VA 1-Hour Ozone Nonattainment Area, 10201–10203

Approval and Promulgation of State Implementation Plans: Montana; Interstate Transport of Pollution, New Definitions of PM and PM 2.5, 10203–10204

Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System, 10204–10210

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 10242–10243

Meetings:

Clean Air Scientific Advisory Committee, 10243–10244

Executive Office for Immigration Review

RULES

Inflation Adjustment for Civil Monetary Penalties Under the Immigration and Nationality Act, 10130–10137

Executive Office of the President

See Presidential Documents

Federal Accounting Standards Advisory Board

NOTICES

Statement of Federal Financial Accounting Concepts, 10244

Federal Aviation Administration

RULES

Airworthiness Directives:

Dassault Model Falcon 2000, Falcon 2000EX, Mystere Falcon 900, Falcon 900EX, Fan Jet Falcon, Mystere-Falcon 50, Mystere Falcon 20, Mystere-Falcon 200, etc., 10139–10140

Operation of Civil Aircraft of U.S. Registry Outside of the United States, 10140–10143

PROPOSED RULES

Airworthiness Directives:

Przedsiębiorstwo Doswiadczalno-Produkcyjne Szybownictwa “PZL-Bielsko” Model SZD-50-3 “Puchacz” Gliders, 10188–10190

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 10320–10321

Meetings:

Executive Committee of the Aviation Rulemaking Advisory Committee, 10321

Petition for Exemption; Summary of Petition Received,
10322

Federal Emergency Management Agency

RULES

Suspension of Community Eligibility, 10155–10157

Federal Energy Regulatory Commission

NOTICES

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 10235–10237

Amendment:

Rockies Express Pipeline LLC, 10238

Amendment of License and Soliciting Comments, Motions
to Intervene, and Protests:

Brazos River Authority, 10237–10238

Application:

Tennessee Gas Pipeline Co., 10239–10240

Application for Temporary Amendment of License,
Soliciting Comments, Motions to Intervene and
Protests:

Pacific Gas and Electric Company, 10238–10239

Combined Notice of Filings, 10240–10241

Soliciting Scoping Comments:

City of Kaukauna, WI, 10241–10242

Federal Motor Carrier Safety Administration

RULES

Fees for Unified Carrier Registration Plan and Agreement;
Correction, 10157–10158

Federal Railroad Administration

NOTICES

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 10322–10327

Federal Reserve System

NOTICES

Meetings; Sunshine Act, 10244

Federal Trade Commission

PROPOSED RULES

Guides for the Jewelry, Precious Metals, and Pewter
Industries, 10190–10199

NOTICES

Premerger notification Waiting Periods; Early Terminations,
10244–10247

Federal Transit Administration

NOTICES

National Rural Transportation Assistance Program; Request
for Proposals, 10327–10332

Fish and Wildlife Service

PROPOSED RULES

Endangered and Threatened Wildlife and Plants:
Greater Sage-Grouse, 10218–10219

NOTICES

Erie National Wildlife Refuge, Crawford County, PA,
10278–10279

Iroquois National Wildlife Refuge, Genesee County and
Orleans County, NY, 10279–10280

Issuance of Permits for Marine Mammals, 10280–10281

Meetings:

Trinity Adaptive Management Working Group, 10281

Oregon Parks and Recreation Department Habitat
Conservation Plan:

Western Snowy Plover in Clastop, Tillamook, Lincoln,
Lane, Douglas, Coos, and Curry Counties, Oregon,
10281–10282

Receipt of Applications for Permit, 10282–10283

Health and Human Services Department

See Centers for Disease Control and Prevention

See Centers for Medicare & Medicaid Services

See Children and Families Administration

See Health Resources and Services Administration

See National Institutes of Health

See Refugee Resettlement Office

NOTICES

Meetings:

Secretary's Advisory Committee on Re-Designation of
Head Start Grantees, 10248

Health Resources and Services Administration

NOTICES

HIV/AIDS Bureau Policy Notice, 10260–10262

Homeland Security Department

See Federal Emergency Management Agency

See Transportation Security Administration

RULES

Inflation Adjustment for Civil Monetary Penalties Under
the Immigration and Nationality Act, 10130–10137

Housing and Urban Development Department

NOTICES

Announcement of Funding Awards:

Housing Choice Voucher Family Self Sufficiency Program
for Fiscal Year 2007, 10264–10274

Public Housing Family Self-Sufficiency for Fiscal Year
2007, 10274–10278

Interior Department

See Fish and Wildlife Service

See Land Management Bureau

See Minerals Management Service

See National Park Service

International Trade Administration

NOTICES

Initiation of Antidumping Duty Investigation:

Circular Welded Austenitic Stainless Pressure Pipe from
the Peoples Republic of China, 10221–10226

Recruitment for expressions of interest from qualified U.S.
travel and tourism industry associations, 10226

International Trade Commission

NOTICES

Notice of Investigation:

Certain Refrigerators and Components, 10285–10286

Justice Department

See Executive Office for Immigration Review

RULES

Inflation Adjustment for Civil Monetary Penalties Under
the Immigration and Nationality Act, 10130–10137

NOTICES

Amendment to Consent Decree, etc.:

Neils Landfill, Lemon Lane Landfill and Bennetts Dump,
10286–10287

Extension of Period for Public Comments Regarding
Settlement Agreement, 10287

Extension of Public Comment Period Regarding Lodging of Consent Decree, 10287–10288

Labor Department

See Employment and Training Administration

Land Management Bureau

NOTICES

Public Land Order:

Revocation of Secretarial Order dated June 28, 1943; Utah, 10283–10284

Library of Congress

See Copyright Office, Library of Congress

Merit Systems Protection Board

RULES

Implementation of Electronic Filing, 10127–10130

Millennium Challenge Corporation

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 10290–10291

Minerals Management Service

NOTICES

Preparation of an Environmental Assessment for the Alternative Energy and Alternate Use, 10284

National Aeronautics and Space Administration

RULES

Cross-Waiver of Liability, 10143–10150

NOTICES

Meetings:

NASA Advisory Council; Science Committee; Heliophysics Subcommittee, 10291

National Agricultural Statistics Service

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 10220

National Institutes of Health

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 10262

Meetings:

National Heart, Lung, and Blood Institute, 10262–10263
National Institute of Allergy and Infectious Diseases, 10263
National Library of Medicine, 10263

National Labor Relations Board

PROPOSED RULES

Joint Petitions for Certification Consenting to an Election, 10199–10201

National Oceanic and Atmospheric Administration

RULES

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure, 10158–10159

Fisheries of the Exclusive Economic Zone Off Alaska:

Bering Sea and Aleutian Islands; Final 2008 and 2009 Harvest Specifications for Groundfish, 10160–10184
Pollock in Statistical Area 630 of the Gulf of Alaska, 10159–10160

NOTICES

Meetings:

Gulf of Mexico Fishery Management Council, 10227

National Park Service

NOTICES

General Management Plan; Final Environmental Impact Statement:

Saguaro National Park, AZ, 10284–10285

Meetings:

Cape Cod National Seashore Advisory Commission, 10285

National Preservation Technology and Training Board -National Center for Preservation Technology and Training, 10285

National Science Foundation

NOTICES

Committee Management; Renewal, 10291

Navy Department

NOTICES

Meetings:

Supplement to Draft Environmental Impact Statement, etc.; Hawaii Range Complex, 10232–10233

Privacy Act; Systems of Records, 10233

Nuclear Regulatory Commission

PROPOSED RULES

Geologic Repository Operations Area Security and Material Control and Accounting Requirements; Extension of Comment Period, 10187–10188

NOTICES

Appointment of Adjudicatory Employee:

Amergen Energy Company, LLC, 10291

Availability of Environmental Assessment and Finding of No Significant Impact, etc.:

Veterans Affairs Facility; Tucson, AZ, 10291–10293

Biweekly Notice; Applications and Amendments to Facility Operating Licenses, 10293–10302

Consideration of Issuance of Amendments to Facility Operating Licenses:

Duke Power Company LLC, et al., 10302–10305

Consideration of Issuances of Amendments to Facility Operating Licenses:

Vogle Electric Generating Plant, Units 1 and 2, 10305–10308

Issuance of Environmental Assessment and Finding of No Significant Impact:

Kansas State University Triga Mark II Nuclear Reactor, 10308–10309

Personnel Management Office

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 10309–10310

Presidential Documents

ADMINISTRATIVE ORDERS

Palestinian Authority; imposition and waiver of sanctions (Presidential Determination)

No. 2008-11 of February 11, 2008, 10123

No. 2008-12 of February 13, 2008, 10125

Refugee Resettlement Office

PROPOSED RULES

Limitation on Use of Funds and Eligibility for Funds Made Available to Monitor and Combat Trafficking in Persons, 10210–10218

Rural Telephone Bank**NOTICES**

Determination of the 2007 Fiscal Year Interest Rate on Rural Telephone Bank Loans, 10220–10221

Securities and Exchange Commission**NOTICES**

Application:

Triangle Capital Corporation, 10310–10313

Meetings:

Advisory Committee on Improvements to Financial Reporting, 10313

Order of Suspension of Trading:

TelcoBlue, Inc., 10313–10314

Self-Regulatory Organizations; Proposed Rule Changes:

American Stock Exchange LLC, 10314–10319

Chicago Board Options Exchange, 10319–10320

Small Business Administration**NOTICES**

Meetings:

National Womens Business Council, 10320

Statistical Reporting Service

See National Agricultural Statistics Service

Surface Transportation Board**NOTICES**

Notice Tentatively Approving Finance Transaction:

Fenway Partners Capital Fund III, L.P. et al., 10332–10334

Railroad Cost Recovery Procedures; Productivity

Adjustment, 10335

Textile Agreements Implementation Committee

See Committee for the Implementation of Textile Agreements

Transportation Department

See Federal Aviation Administration

See Federal Motor Carrier Safety Administration

See Federal Railroad Administration

See Federal Transit Administration

See Surface Transportation Board

Transportation Security Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 10263–10264

Veterans Affairs Department**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 10335

Separate Parts In This Issue**Part II**

Health and Human Services Department, Children and Families Administration, 10338–10378

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR	Proposed Rules:
Administrative Orders:	17.....10218
Presidential	
Determinations:	
No. 2008-11 of	
February 11, 2008	10123
No. 2008-12 of	
February 13, 2008	10125
5 CFR	
1201.....	10127
1203.....	10127
1208.....	10127
1209.....	10127
7 CFR	
Proposed Rules:	
51.....	10185
8 CFR	
270.....	10130
274a.....	10130
280.....	10130
1274a.....	10130
9 CFR	
78.....	10137
10 CFR	
Proposed Rules:	
60.....	10187
63.....	10187
73.....	10187
74.....	10187
14 CFR	
39.....	10139
91.....	10140
1266.....	10143
Proposed Rules:	
39.....	10188
16 CFR	
Proposed Rules:	
23.....	10190
28 CFR	
68.....	10130
29 CFR	
Proposed Rules:	
101.....	10199
102.....	10199
40 CFR	
52.....	10150
Proposed Rules:	
52 (2 documents)	10201,
	10203
260.....	10204
261.....	10204
262.....	10204
263.....	10204
264.....	10204
265.....	10204
271.....	10204
44 CFR	
64.....	10155
45 CFR	
1356.....	10338
Proposed Rules:	
404.....	10210
49 CFR	
367.....	10157
50 CFR	
622.....	10158
679 (2 documents)	10159,
	10160

Title 3—

Presidential Determination No. 2008–11 of February 11, 2008

The President

Implementation of Sections 603 and 604 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228)**Memorandum for the Secretary of State**

Consistent with the authority contained in section 604 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228)(the “Act”), and with reference to the determinations set out in the report to be transmitted to the Congress pursuant to section 603 of that Act regarding non-compliance by the Palestine Liberation Organization and the Palestinian Authority with certain commitments, I hereby impose the sanction set out in section 604(a)(2), “Downgrade in Status of the PLO Office in the United States.” This sanction is imposed for a period of 180 days from the date hereof or until such time as the next report required by section 603 of the Act is transmitted to the Congress, whichever is later. You are authorized and directed to transmit to the appropriate congressional committees the report described in section 603 of the Act.

Furthermore, I hereby determine that it is in the national security interest of the United States to waive that sanction, pursuant to section 604(c) of the Act. This waiver shall be effective for a period of 180 days from the date hereof or until such time as the next report required by section 603 of the Act is transmitted to the Congress, whichever is later.

You are hereby authorized and directed to transmit this determination to the Congress and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, February 11, 2008.

Title 3—

Presidential Determination No. 2008–12 of February 13, 2008

The President

Implementation of Sections 603 and 604 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228)**Memorandum for the Secretary of State**

Consistent with the authority contained in section 604 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228)(the “Act”), and with reference to the determinations set out in the report to be transmitted to the Congress pursuant to section 603 of that Act regarding non-compliance by the Palestine Liberation Organization and the Palestinian Authority with certain commitments, I hereby impose the sanction set out in section 604(a)(2), “Downgrade in Status of the PLO Office in the United States.” This sanction is imposed for a period of 180 days from the date hereof or until such time as the next report required by section 603 of the Act is transmitted to the Congress, whichever is later. You are authorized and directed to transmit to the appropriate congressional committees the report described in section 603 of the Act.

Furthermore, I hereby determine that it is in the national security interest of the United States to waive that sanction, pursuant to section 604(c) of the Act. This waiver shall be effective for a period of 180 days from the date hereof or until such time as the next report required by section 603 of the Act is transmitted to the Congress, whichever is later.

You are hereby authorized and directed to transmit this determination to the Congress and to publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, February 13, 2008.

Rules and Regulations

Federal Register

Vol. 73, No. 38

Tuesday, February 26, 2008

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

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MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1201, 1203, 1208, and 1209

Final Rule for Implementation of Electronic Filing

AGENCY: Merit Systems Protection Board.

ACTION: Final rule with request for comments.

SUMMARY: The Merit Systems Protection Board (MSPB) is adopting as a final rule the interim rule governing electronic filing (e-filing) that it promulgated in 2003, as amended the following year, and as further amended by the present notice. When first promulgated in 2003, the online application was restricted to the filing of new appeals; subsequent documents could only be delivered via electronic mail (e-mail). A year later, we modified the rule to reflect that e-Appeal Online could be used to file almost any type of pleading. As further modified in the present Notice, the rule recognizes the MSPB's online Repository of case-related documents that enables parties and their representatives to access the pleadings and MSPB issuances related to the particular employment controversies in which they are involved. The modified rule also contains a requirement that e-filers who include three (3) or more attachments with a pleading describe each attachment. Finally, although not a part of this final rule, the MSPB is giving serious consideration to making e-filing mandatory for agencies and attorneys who represent appellants in MSPB proceedings. Although any such rule could only be issued following a new **Federal Register** notice, we welcome comments on this issue at the present time.

DATES: This rule is effective April 28, 2008. Written comments should be submitted on or before March 27, 2008.

ADDRESSES: Send or deliver comments to the Office of Clerk of the Board, U.S. Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; fax: (202) 653-7130; or e-mail: mspb@mspb.gov.

FOR FURTHER INFORMATION CONTACT: William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; (202) 653-7200; fax: (202) 653-7130; or e-mail: mspb@mspb.gov.

SUPPLEMENTARY INFORMATION: Before describing the changes being made to our regulations at this time, we note that the MSPB did not receive any comments from the public to the interim rule promulgated in 2003, 68 FR 59859, nor to the 2004 modifications to that rule, 69 FR 57627.

Summary of Significant Changes

1. Repository at e-Appeal Online (paragraph (i))

Beginning in July 2007, the MSPB has maintained a Repository at e-Appeal Online (<https://e-appeal.mspb.gov>) that contains the electronic documents that relate to MSPB appeals, including all notices, orders, decisions, and other documents issued by the MSPB to the parties, as well as pleadings filed via e-Appeal Online. In addition, virtually all pleadings filed at the petition for review stage of adjudication, even if filed in paper form, and some pleadings filed at the regional office level, are available at the Repository. Also available at the Repository is an electronic "docket sheet" that lists all documents issued by the MSPB to the parties, as well as all pleadings filed by the parties, including those pleadings that are not available for viewing and downloading in electronic form. When the MSPB issues a document to the parties, or when an electronic pleading is filed by an e-filer, an e-mail message is generated to all e-filers in the case notifying them of the new pleading or MSPB issuance, and providing a link to the document at the Repository. (See paragraph (j).) Access to appeal documents at the Repository is limited to the parties and representatives of the cases in which they were filed.

In the very near future, all pleadings added to the Repository will be full-text searchable, including printed materials that have been converted to electronic format by scanning. This will be

accomplished using optical character recognition software that converts image-only electronic formats into an image-plus-text electronic format. We believe that making case-related documents full-text searchable will make it easier for both the parties to MSPB proceedings and the MSPB itself to search case files for pertinent materials.

2. Multiple Attachments Must be Described

Paragraph (g)(3) requires an e-filer who is uploading three (3) or more supporting attachments, in addition to the document that constitutes the party's primary pleading, to describe each attachment. The reason for this requirement is to increase the utility of having large documents in electronic format. When attachments are described as required by this provision, the MSPB's software formats the pleading so that it includes a table of contents which lists the page number on which each attachment starts. In addition, the electronic Portable Document Format (PDF) version contains "bookmarks" that can be seen at the same time as the document itself, and clicking the bookmark for a particular attachment takes the user directly to that attachment.

Although this requirement would apply to all electronic pleadings with three (3) or more attachments, it will have particular significance for the Agency File (see 5 CFR 1201.25), which is often the largest pleading in the case file, and which often has the most attachments of any pleading in the case file. We believe that any extra time required to describe each attachment under this rule will be offset by the time saved compared to the present method of producing the Agency File, which requires the manual production of a table of contents and the insertion of numerous paper dividers. In addition, this feature will enable all participants to cite the exact pages on which each attachment can be found, as all pages in e-filed pleadings, including attachments, are sequentially paginated by the e-Appeal Online software, e.g., page 1 of 125, page 2 of 125, etc. Under current practice, such precise citation is frequently not possible, as a particular attachment may consist of two pages in the middle of a group of documents

located within a single tab in the Agency File.

3. Other Changes

Other additions and changes from the current rule include the following:

- The current regulation excludes the filing of the original complaint or request in an appeal within the MSPB's original jurisdiction from e-filing. That exclusion will no longer be necessary, as the MSPB is adding a module to e-Appeal Online that will allow such filings. Paragraphs (b) and (c) of section 1201.14, and sections 1201.134(g), 1201.137(g), and 1201.143(f) have been amended to reflect this change.

- Paragraph (e)(3) has been modified to provide that, when a party has more than one representative, all representatives must choose the same method of service. In the interest of administrative efficiency, we do not believe it would be unduly burdensome to require all representatives to choose the same service method, be it electronic or postal mail. The regulation still provides that the appellant and his or her representative can choose different methods of service.

- Because the content of what was paragraph (e)(4) has been modified and redesignated as paragraph (f), and because a new paragraph (i) has been added regarding the Repository at e-Appeal Online, the designations of the materials that had been contained in paragraphs (f) through (m) have changed. This redesignation of paragraphs also required a minor change to § 1201.4(k).

- Paragraph (e)(5) clarifies that registration as an e-filer ordinarily applies only to a single MSPB appeal, i.e., the MSPB will not presume that an individual who was an e-filer in one proceeding has opted to become an e-filer in subsequent MSPB proceedings.

- Paragraph (e)(6) mandates that e-filers notify the MSPB of any change in their e-mail addresses.

- Paragraph (h) provides that, in hybrid pleadings in which part of a pleading is submitted electronically, and one or more attachments is submitted in paper form, all components are subject to applicable time limits, and untimely filed components may be rejected as untimely filed. We note in this regard that an e-filer is only required to certify that he or she will submit the paper components within one business day of the electronic submission.

- Paragraph (j)(1) clarifies that paper copies of MSPB documents will not ordinarily be served on e-filers.

- Paragraph (j)(2) clarifies that e-filers are responsible for ensuring that e-mail

messages from e-Appeal Online are not blocked by filters of one sort or another.

- Paragraph (j)(3) provides that e-filers are responsible for monitoring case activity. The MSPB's software automatically generates an e-mail message to e-filers with a link to the Repository whenever the MSPB issues a document to the parties, or when another e-filer submits an electronic pleading. In addition, e-filers are responsible for ensuring that their e-mail accounts are not blocked by filters, as noted above. Nevertheless, this rule clarifies that e-filers are still responsible for monitoring the Repository on a regular basis to ensure that they have received all case-related documents.

- Paragraph (m) clarifies that e-filed pleadings are stamped with the date and time of submission in the Eastern Time Zone, but that the timeliness of a pleading will be determined based on the time zone from which the pleading was submitted.

- Paragraph (o) clarifies that the MSPB reserves the right to revert to traditional methods (postal mail, fax, personal or commercial delivery) for serving documents on parties and representatives, and that parties and representatives are responsible for ensuring that the MSPB always has their current postal mailing addresses, even when they have registered as e-filers.

Possible Requirement of Mandatory E-Filing for Agencies and Attorneys

Although not part of this final rule, the MSPB is considering proposing a rule that would make e-filing mandatory for agencies and attorneys who represent appellants. The MSPB's long-term goal is to have entirely electronic case files (e-case files), which we believe would have significant benefits both for the MSPB and the participants in MSPB appeals. All parties and representatives, as well as appropriate MSPB employees, would have access to all case-related documents at any time and place, as long as they had access to the Internet. In addition, the ability to run sophisticated full-text searches of the contents of the entire case file would make it easier for parties and the MSPB to find and cite pertinent record evidence.

There are only two basic methods for getting the parties' pleadings into an electronic format for inclusion in an e-case file—they can be filed in an electronic format; or they can be scanned after they have been filed in paper form. The MSPB lacks the resources to scan all pleadings received in paper form, and we view that option as unduly labor intensive. If e-filing remains completely optional, it is

unlikely that the MSPB will ever achieve completely electronic, searchable case files. If, however, all pleadings submitted by agencies and attorneys were e-filed, scanning the remaining paper pleadings would become manageable, especially considering the significant number of pleadings e-filed by pro se appellants.

Although the law requires federal agencies to provide information and services via the Internet, it also mandates that agencies consider the impact on persons without access to the Internet and, to the extent practicable, ensure that the availability of government services has not been diminished for such persons. 44 U.S.C. 3501 note. Accordingly, the MSPB cannot make e-filing mandatory for pro se appellants. We see no legal restriction to making e-filing mandatory for Federal agencies or attorneys, however, and do not believe it would impose undue costs or difficulties for them. We note in this regard that e-filing is generally mandatory for attorneys in the Federal district courts; only parties proceeding on a pro se basis have the option of filing pleadings in paper form. We also note that, unlike e-filing in the Federal courts, e-Appeal Online does not require the filer to convert other electronic formats to PDF before filing; the MSPB's software accepts numerous common formats, including word-processing formats, and converts them to PDF. All that would be required are a computer, access to e-mail and the Internet, and a scanner.

List of Subjects

5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

5 CFR Part 1203

Administrative practice and procedure, Civil rights, Government employees.

5 CFR Part 1208

Administrative practice and procedure, Government employees, Veterans.

5 CFR Part 1209

Administrative practice and procedure, Government employees, Whistleblowing.

■ Accordingly, the interim rules amending 5 CFR parts 1201, 1203, 1208, and 1209, which were published at 68 FR 59859 on October 20, 2003, and at 69 FR 57627 on September 27, 2004, are adopted as final rules with the following changes:

PART 1201—[AMENDED]

■ 1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204 and 7701, unless otherwise noted.

■ 2. Revise § 1201.4(k) to read as follows:

§ 1201.4 General definitions.

* * * * *

(k) *Certificate of service.* A document certifying that a party has served copies of pleadings on the other parties or, in the case of paper documents associated with electronic filings under paragraph (h) of § 1201.14, on the MSPB.

* * * * *

■ 3. Section 1201.14 is revised to read as follows:

§ 1201.14 Electronic Filing Procedures.

(a) *General.* This section prescribes the rules and procedures by which parties and representatives to proceedings within the MSPB's appellate and original jurisdiction may file and receive documents in electronic form.

(b) *Matters subject to electronic filing.* Subject to the registration requirement of paragraph (e) of this section, parties and representatives may use electronic filing (e-filing) to do any of the following:

(1) File any pleading, including a new appeal, in any matter within the MSPB's appellate jurisdiction (§ 1201.3);

(2) File any pleading in any matter within the MSPB's original jurisdiction (§ 1201.2);

(3) File a petition for enforcement of a final MSPB decision (§ 1201.182);

(4) File a motion for an attorney fee award as a prevailing party (§ 1201.203);

(5) File a motion for compensatory or consequential damages (§ 1201.204);

(6) Designate a representative, revoke such a designation, or change such a designation (§ 1201.31); or

(7) Notify the MSPB of a change in contact information such as address (geographic or electronic mail) or telephone number.

(c) *Matters excluded from electronic filing.* Electronic filing may not be used to:

(1) File a request to hear a case as a class appeal or any opposition thereto (§ 1201.27);

(2) Serve a subpoena (§ 1201.83); or

(3) File a pleading with the Special Panel (§ 1201.173).

(d) *Internet is sole venue for electronic filing.* Following the instructions at e-Appeal Online, the MSPB's e-Appeal site (<https://e-appeal.mspb.gov>), is the only method allowed for filing electronic pleadings with the MSPB.

The MSPB will not accept pleadings filed by electronic mail (e-mail).

(e) *Registration as an e-filer.*

(1) Registration as an e-filer constitutes consent to accept electronic service of pleadings filed by other registered e-filers and documents issued by the MSPB. Except when filing a new appeal within the MSPB's appellate jurisdiction (§ 1201.3), no party or representative may file an electronic pleading with the MSPB unless he or she has registered with the MSPB as an e-filer.

(2) With the exception of a designation of a representative by a party who is an individual, the exclusive means for a party or representative to register as an e-filer during an MSPB proceeding is to follow the instructions at e-Appeal Online (<https://e-appeal.mspb.gov>).

(3) When a party who is an individual is represented, the party and the representative can make separate determinations whether to register as an e-filer. For example, an appellant may file and receive pleadings and MSPB documents by non-electronic means, even though his or her representative has registered as an e-filer. When a party has more than one representative, however, all representatives must choose the same method of service.

(4) A party or representative may withdraw his or her registration as an e-filer. Such withdrawal means that, effective upon the MSPB's receipt of this withdrawal, pleadings and MSPB documents will no longer be served on that person in electronic form. A withdrawal of registration as an e-filer may be filed at e-Appeal Online, in which case service is governed by paragraph (j) of this section, or by non-electronic means, in which case service is governed by § 1201.26(b).

(5) Registration as an e-filer applies only to a single MSPB appeal or proceeding. If an appeal is dismissed without prejudice, however, and is later refiled, an election of e-filing status will remain in effect. An election of e-filing status will also remain in effect for purposes of filing a petition for enforcement under Subpart F of this part, or filing a motion for an attorney fee award or compensatory or consequential damages under Subpart H of this Part.

(6) Each e-filer must notify the MSPB and other participants of any change in his or her e-mail address. When done via e-Appeal Online, such notification is done by selecting the "Pleading" option.

(f) *e-Filing not mandatory for e-filers.* A party or representative who has registered as an e-filer may file any pleading by non-electronic means, i.e.,

via postal mail, fax, or personal or commercial delivery.

(g) *Form of electronic pleadings.*

(1) *Options for e-filing.* An appellant or representative using e-Appeal Online to file a new appeal within the MSPB's appellate jurisdiction (§ 1201.3) must complete the structured interview at that site (<https://e-appeal.mspb.gov>). For all other pleadings, the e-filer has the option of uploading an electronic file or entering the text of the pleading online. Regardless of the means of filing a particular pleading, the e-filer will be allowed to submit supporting documentation such as attachments, in either electronic or paper form, as described in paragraphs (g)(2), (g)(3), and (h) of this section.

(2) *Electronic formats allowed.* The MSPB will accept numerous electronic formats, including word-processing and spreadsheet formats, Portable Document Format (PDF), and image files (files created by scanning). A list of formats allowed can be found at e-Appeal Online. All electronic documents must be formatted so that they will print on standard 8½ inch by 11 inch paper.

(3) *Requirements for pleadings with 3 or more electronic attachments.* An e-filer who uploads 3 or more supporting documents, in addition to the document that constitutes the primary pleading, must identify each attachment, either by filling out the table for such attachments at e-Appeal Online, or by uploading the supporting documents in the form of one or more PDF files in which each attachment is bookmarked. Each attachment must be designated with a brief descriptive label, which will include exhibit numbers or letters where appropriate or required, e.g., "Exh. 4b, Decision Notice."

(h) *Hybrid pleadings that include both electronic and paper documents.* An e-filer may file a hybrid pleading in which part of the pleading is submitted electronically, and part of the pleading consists of one or more paper documents filed by non-electronic means. All components of a hybrid pleading are subject to applicable time limits. If one or more parts of a hybrid pleading are untimely filed, the judge or the Clerk may reject the untimely part or parts while accepting timely filed parts of the same pleading.

(i) *Repository at e-Appeal Online.* All notices, orders, decisions, and other documents issued by the MSPB, as well as all pleadings filed via e-Appeal Online, will be made available to parties and their representatives for viewing and downloading at the Repository at e-Appeal Online. In addition, most pleadings filed at the petition for review stage of adjudication, and some

pleadings filed at the regional office level, will be available at the Repository. Also available at the Repository will be an electronic “docket sheet” listing all documents issued by the MSPB to the parties, as well as all pleadings filed by the parties, including those pleadings that are not available for viewing and downloading in electronic form. Access to appeal documents at the Repository will be limited to the parties and representatives of the appeals in which they were filed.

(j) *Service of electronic pleadings and MSPB documents.*

(1) When MSPB documents are issued, e-mail messages will be sent to e-filers that notify them of the issuance and that contain links to the Repository where the documents can be viewed and downloaded. Paper copies of these documents will not ordinarily be served on e-filers. Pleadings submitted via e-Appeal Online will be available to parties and representatives at the e-Appeal Online Repository, and the MSPB will send e-mail messages to other e-filers notifying them of each pleading, with a link to the Repository. When using e-Appeal Online to file a pleading, e-filers will be notified of all documents that must be served by non-electronic means, and they must certify that they will serve all such documents no later than the first business day after the electronic submission.

(2) Delivery of e-mail can encounter a number of failure points. If the MSPB is advised of non-delivery, it will attempt to redeliver and, if that is unsuccessful, will deliver by postal mail or other means. E-filers are responsible for ensuring that e-mail from @mspb.gov is not blocked by filters.

(3) E-filers are responsible for monitoring case activity at the Repository at e-Appeal Online to ensure that they have received all case-related documents.

(k) *Documents requiring a signature.* Electronic documents filed by a party who has registered as an e-filer pursuant to this section shall be deemed to be signed for purposes of any regulation in part 1201, 1203, 1208, or 1209 of this chapter that requires a signature.

(l) *Affidavits and Declarations made under penalty of perjury.* Registered e-filers may submit electronic pleadings in the form of declarations made under penalty of perjury under 28 U.S.C. 1746, as described in Appendix IV to this part. If the declarant is someone other than the e-filer, a physically signed affidavit or declaration should be uploaded as an image file, or submitted separately as a non-electronic document under paragraph (h) of this section.

(m) *Date electronic documents are filed and served.*

(1) As provided in § 1201.4(l) of this Part, the date of filing for pleadings filed via e-Appeal Online is the date of electronic submission. All pleadings filed via e-Appeal Online are time stamped with Eastern Time, but the timeliness of a pleading is assessed based on the time zone where the pleading is being filed. For example, a pleading filed at 11 p.m. Pacific Time on August 20 will be stamped by e-Appeal Online as being filed at 2 a.m. Eastern Time on August 21. However, if the pleading was required to be filed with the Western Regional Office on August 20, it would be considered timely, as it was submitted prior to midnight Pacific Time on August 20.

(2) MSPB documents served electronically on registered e-filers are deemed received on the date of electronic submission.

(n) *Authority of a judge or the Clerk to regulate e-filing.*

(1) In the event that the MSPB or any party encounters difficulties filing, serving, or receiving electronic documents, the judge or the Clerk of the Board may order one or more parties to cease filing pleadings by e-filing, cease serving documents in electronic form, or take both these actions. In such instances, filing and service shall be undertaken in accordance with § 1201.26. The authority to order the cessation of the use of electronic filing may be for a particular submission, for a particular time frame, or for the duration of the pendency of a case.

(2) A judge or the Clerk of the Board may require that any document filed electronically be submitted in non-electronic form and bear the written signature of the submitter. A party receiving such an order from a judge or the Clerk of the Board shall, within 5 calendar days, serve on the judge or Clerk of the Board by postal mail, by fax, or by commercial or personal delivery a signed, non-electronic copy of the document.

(o) *MSPB reserves the right to revert to traditional methods of service.* The MSPB may serve documents via traditional means—postal mail, fax, personal or commercial delivery—at its discretion. Parties and their representatives are responsible for ensuring that the MSPB always has their current postal mailing addresses, even when they have registered as e-filers.

■ 4. Revise § 1201.134(g) to read as follows:

§ 1201.134 **Deciding official; filing stay request; serving documents on parties.**

* * * * *

(g) *Electronic filing.* All pleadings may be filed and served in electronic form at the MSPB e-Appeal site (<https://e-appeal.mspb.gov/>), provided the requirements of § 1201.14 are satisfied.

■ 5. Revise § 1201.137(f) to read as follows:

§ 1201.137 **Covered actions; filing complaint; serving documents on parties.**

* * * * *

(f) *Electronic filing.* All pleadings may be filed and served in electronic form at the MSPB e-Appeal site (<https://e-appeal.mspb.gov/>), provided the requirements of § 1201.14 are satisfied.

■ 6. Revise § 1201.143(f) to read as follows:

§ 1201.143 **Right to hearing; filing complaint; serving documents on parties.**

* * * * *

(f) *Electronic filing.* All pleadings may be filed and served in electronic form at the MSPB e-Appeal site (<https://e-appeal.mspb.gov/>), provided the requirements of § 1201.14 are satisfied.

William D. Spencer,
Clerk of the Board.

[FR Doc. E8-3515 Filed 2-25-08; 8:45 am]

BILLING CODE 7400-01-P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 270, 274a, and 280

RIN 1653-AA39

DEPARTMENT OF JUSTICE

28 CFR Part 68

Executive Office for Immigration Review

8 CFR Part 1274a

RIN 1125-AA61

[EOIR Docket No. 165F; A.G. Order No. 2944-2008]

Inflation Adjustment for Civil Monetary Penalties Under Sections 274A, 274B, and 274C of the Immigration and Nationality Act

AGENCIES: U.S. Immigration and Customs Enforcement, DHS; Executive Office for Immigration Review, Justice.

ACTION: Final rules.

SUMMARY: As required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, the Department of Homeland Security and the Department of Justice are

publishing these rules adjusting for inflation the civil monetary penalties assessed or enforced by those two Departments under sections 274A, 274B, and 274C of the Immigration and Nationality Act (INA). The adjusted civil money penalties are calculated according to the specific formula laid out by law, and will be effective for violations occurring on or after the effective date of these rules.

DATES: These rules are effective March 27, 2008.

FOR FURTHER INFORMATION CONTACT:

Concerning amendments to 8 CFR parts 270 and 274a: Marissa Hernandez, National Program Manager for Worksite Enforcement, Office of Investigations, 425 I Street, NW., Washington, DC 20536, telephone number (202) 307-0071 (not a toll free call).

Concerning amendments made to 8 CFR part 1274a and 28 CFR part 68: Kevin J. Chapman, Acting General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041, telephone number (703) 305-0470 (not a toll free call).

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410 (Adjustment Act), 28 U.S.C. 2461 note, provides for the regular evaluation of civil monetary penalties to ensure that they continue to maintain their deterrent effect and that penalty amounts due the Federal Government are properly accounted for and collected.

On April 26, 1996, the President signed into law the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134. Section 31001 of that Act, also known as the Debt Collection Improvement Act of 1996 (Improvement Act), amended the Adjustment Act to provide more effective tools for government-wide collection of delinquent debt. Section 31001(s)(1) of the Improvement Act added a new section 7 to the Adjustment Act providing that any increase in a civil monetary penalty made pursuant to this Act shall apply only to violations that occur after the date the increase takes effect. The Improvement Act provides that the adjustments for inflation required by the Adjustment Act should be made every four years.

The amounts of the adjustments are determined according to a detailed formula specified in the Adjustment Act, incorporating a "cost-of-living adjustment" that is defined in section

5(b) of the Adjustment Act as being the percentage (if any) for each civil monetary penalty by which:

(1) The Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds

(2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

In addition, section 5(a) of the Adjustment Act provides that any increase so determined under this formula is subject to rounding under the following specified standards:

- For penalties less than or equal to \$100, increases are rounded to multiples of \$10;
- For penalties greater than \$100 but less than or equal to \$1,000, increases are rounded to multiples of \$100;
- For penalties greater than \$1,000 but less than or equal to \$10,000, increases are rounded to multiples of \$1,000;
- For penalties greater than \$10,000 but less than or equal to \$100,000, increases are rounded to multiples of \$5,000;
- For penalties greater than \$100,000 but less than or equal to \$200,000, increases are rounded to multiples of \$10,000; and
- For penalties greater than \$200,000, increases are rounded to multiples of \$25,000.

Section 31001(s)(2) of the Improvement Act also provides that the first adjustment of a civil monetary penalty made pursuant to these procedures may not exceed 10 percent of the penalty.

II. Civil Penalties Imposed After Hearing Before an Administrative Law Judge

These final rules revise the current regulations implementing three different sections in the Immigration and Nationality Act (INA) that provide for the imposition of civil money penalties to be imposed for violations of the law, each of which include provisions for a hearing before an administrative law judge (ALJ) to adjudicate cases and set the amount of the penalty. The Department of Homeland Security (DHS) has enforcement responsibilities for two of these civil penalty provisions,¹ while the Civil Rights Division of the Department of Justice

has enforcement responsibilities for the third.

Section 274A of the INA (8 U.S.C. 1324a). Section 274A provides for imposition of civil penalties for various specified unlawful acts pertaining to the employment eligibility verification process (Form I-9) and the employment of unauthorized aliens. These penalties cover, among other things, the knowing employment of unauthorized aliens and the failure to comply with the employment verification requirements relating to completion of Form I-9.

U.S. Immigration and Customs Enforcement (ICE), in DHS, conducts the investigations and initiates the process for imposing civil money penalties with respect to employer sanctions under section 274A of the INA and 8 CFR part 274a.

Section 274B of the INA (8 U.S.C. 1324b). Section 274B provides for imposition of civil penalties for specified actions constituting immigration-related unfair employment practices. These penalties cover, among other things, discrimination against job applicants or employees based on nationality or citizenship status, and violations of the law by an employer who refuses to accept permissible documents presented by an employee in compliance with the Form I-9 requirements (for example, by insisting that an employee must present a so-called "green card" even though the employee has already presented proper documentation to complete Form I-9).

The Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), a component within the Civil Rights Division of the Department of Justice, is responsible for investigating alleged violations of section 274B of the INA pertaining to unfair immigration-related employment practices (called "charges"). See 28 CFR part 44. After investigating the charges, OSC is authorized to file a complaint to initiate a civil penalty proceeding. The law also includes a private action provision allowing the person making a charge to file a complaint directly if OSC has not filed a complaint within 120 days after receiving the charges.

Section 274C of the INA (8 U.S.C. 1324c). Section 274C provides for imposition of civil penalties for specified actions relating to immigration-related document fraud.

ICE conducts the investigations and initiates the process for imposing civil money penalties with respect to document fraud under section 274C of the INA and 8 CFR part 270.

Hearings for Adjudicating Complaints and Imposing Penalties. Each of these

¹ Although the enforcement of these provisions of the immigration laws was initially assigned to the Attorney General, and had been delegated to the former Immigration and Naturalization Service (INS), the Homeland Security Act abolished the former INS and transferred its functions to DHS, effective March 1, 2003. See 6 U.S.C. 251, 291.

three sections of the INA provides that, when administrative hearings are necessary to adjudicate the complaints and impose the civil penalties, the hearings are to be conducted before an ALJ. Accordingly, the Attorney General established the Office of the Chief Administrative Hearing Officer (OCAHO), an office within the Executive Office for Immigration Review (EOIR) in the Department of Justice, to conduct the ALJ hearings for civil penalty actions under each of these three statutes. See 28 CFR part 68.

ALJ hearings are conducted in every case under section 274B of the INA. However, an ALJ hearing is conducted under sections 274A and 274C of the INA only if the subject of the civil penalty proceeding requests an administrative hearing, after the issuance of ICE's notice of intent to fine describing the violations and stating the intended amount of the civil penalties. If the subject does not submit a request for an ALJ hearing within the time allowed, then the civil penalties are imposed as determined by ICE. If the subject does make a timely request for a hearing, then an ALJ adjudicates the alleged violations and issues a decision, including a determination of the amount of the civil penalties imposed for any violations found, pursuant to the rules in 28 CFR part 68. An ALJ decision in a case arising under section 274A or 274C of the INA is subject to review by the Chief Administrative Hearing Officer and the Attorney General, as provided in 28 CFR 68.54 and 68.55.

Because both DHS and EOIR can impose penalties relating to employer sanctions and document fraud cases (sections 274A and 274C, respectively), the current regulations of both Departments specify the range of penalties applicable in these kinds of cases. As noted above, the minimum and maximum civil penalty amounts for each violation will necessarily be the same whether the penalties are imposed by DHS without a hearing, or by OCAHO after an administrative hearing. See 8 CFR 274a.10 and 270.3; 28 CFR 68.52(c) and (e).

III. Adjustment of Civil Money Penalties

Under the Adjustment Act, as amended, federal agencies are obligated to adopt, by regulation, revised amounts for statutory civil penalties in order to account for inflation. These regulations carry out that statutory mandate. Since the statutory formula is extremely detailed, leaving no discretion as to setting the specific amounts, these rules implement the new inflation adjustments for the civil penalties

without the need for a notice and comment period.

Pursuant to the authority of the Adjustment Act, the Department of Justice has previously adjusted the civil money penalties for inflation, increasing the specific amounts stated in sections 274A, 274B, and 274C of the INA. The amounts of the civil money penalties currently being imposed under these provisions were last adjusted for inflation in 1999. See 64 FR 7066 (Feb. 12, 1999) (amending 28 CFR part 68); 64 FR 47099 (Aug. 30, 1999) (amending 8 CFR parts 270 and 274a, among others). Since then, as noted, the division of responsibilities between the Attorney General and the Secretary of DHS requires action by both Departments in order to effectuate a further adjustment of the civil penalties, since the current civil penalty amounts are codified in the implementing regulations of both Departments.

In these final rules, the Secretary is amending 8 CFR parts 274a and 270 of the DHS regulations to incorporate the revised schedule of civil penalties, as adjusted for inflation according to the statutory formula described above.

At the same time, the Attorney General is amending 28 CFR part 68 of the Justice Department regulations (the rules governing ALJ proceedings in OCAHO) to make conforming changes reflecting the adjusted schedule of civil penalties.

The Attorney General is also revising a provision in the EOIR regulations, 8 CFR part 1274a.10, to eliminate the current language and to substitute a cross-reference to the existing DHS regulations in 8 CFR part 274a and the existing OCAHO regulations in 28 CFR part 68. Section 1274a.10, which simply reproduces the existing DHS regulations at 8 CFR 274a.10, was promulgated in 2003, in connection with the transfer of authority from the former INS to DHS. To ensure that all relevant authority relating to the shared responsibilities was preserved, the Attorney General at that time duplicated in their entirety the regulations in 8 CFR part 274a (which were being transferred to DHS) into the then-new part 1274a so that these provisions would also continue to be part of the Attorney General's regulations. See 68 FR 9824 (Feb. 28, 2003). However, since the penalty provisions in section 1274a.10 do not add anything to the existing regulatory provisions, the Attorney General is now revising section 1274a.10 to eliminate the duplicative language and to substitute new language cross-referencing the existing DHS regulations in 8 CFR 274a.10 and the existing OCAHO regulations in 28 CFR part 68.

As noted, the current amounts of the civil money penalties under these three statutory provisions were last adjusted, by regulation, in 1999. Pursuant to section 5(b) of the Adjustment Act, the cost of living adjustment is calculated with reference to the Consumer Price Index for all urban consumers for June 1999 (497.9) and for June 2007 (the year preceding the current inflation adjustments) (624.1). This works out to an inflation adjustment of 25.35 percent. Pursuant to the statutory formula specified in the Adjustment Act, the civil money penalties under sections 274A, 274B, and 274C of the INA are being adjusted as indicated in the chart below.

It should be noted that when the inflation adjustment formula was applied in 1999, not all of the penalties were affected. A few remained unchanged because the inflation adjustment when the calculations were last made in 1999 was too small to warrant an inflation increase under the statutory rounding formula set forth in the Adjustment Act. Nonetheless, for the convenience of the reader, we have reproduced those provisions in the chart.

Two sets of penalties were not adjusted before because they were below the threshold for an inflation adjustment in 1999, the last time the penalties were adjusted for inflation, but they are being adjusted by this rule:

- Section 403(a)(4)(C)(ii) of the Illegal Immigration Reform and Immigrant Responsibility Act, Pub. L. 104-208, Div. C (codified at 8 U.S.C. 1324a note and described in 28 CFR 68.52(c)(6)) provides for a civil penalty of not less than \$500 and not more than \$1,000 for an employer participating in the electronic employment eligibility verification program who fails to notify DHS that it ultimately was unable to confirm an employee's employment eligibility.

- Section 274C(a) of the INA was amended in 1997 to provide for a civil penalty of not less than \$250 and not exceeding \$2,000 in two additional circumstances: paragraph (5) covers preparing, filing, or assisting others in preparing or filing falsely made or fraudulent documents or each proscribed activity; and paragraph (6) relates to presenting a travel document to board an air or sea carrier but then failing to present that document upon arrival at the U.S. port of entry.

Because these penalties are being adjusted for the first time, the penalties are being increased by ten percent, the maximum allowable increase for initial increases provided for by section 31001(s)(2) of the Improvement Act. In

addition, this rule makes a conforming change to 8 CFR 280.53, which references the second set of penalties, since these penalties are now being adjusted.

Statute	Min/ Max	Current penalty	Year last adjusted	CPI factor (2008) (percent)	Raw increase (2008)	Rounder	Rounded increase	Adjusted penalty
Hiring, recruiting and referral employer sanctions, first order								
8 U.S.C. 1324a(e)(4)(A)(i) 8 CFR 274a.10(b)(1)(ii)(A)	Min. ...	275	1999	25.35	70	100	100	375
8 U.S.C. 1324a(e)(4)(A)(i) 8 CFR 274a.10(b)(1)(ii)(A)	Max. ..	2,200	1999	25.35	558	1,000	1,000	3,200
Hiring, recruiting and referral employer sanctions, second order								
8 U.S.C. 1324a(e)(4)(A)(ii) 8 CFR 274a.10(b)(1)(ii)(B)	Min. ...	2,200	1999	25.35	558	1,000	1,000	3,200
8 U.S.C. 1324a(e)(4)(A)(ii) 8 CFR 274a.10(b)(1)(ii)(B)	Max. ..	5,500	1999	25.35	1,394	1,000	1,000	6,500
Hiring, recruiting and referral employer sanctions, subsequent order								
8 U.S.C. 1324a(e)(4)(A)(iii) 8 CFR 274a.10(b)(1)(ii)(C)	Min. ...	3,300	1999	25.35	836	1,000	1,000	4,300
8 U.S.C. 1324a(e)(4)(A)(iii) 8 CFR 274a.10(b)(1)(ii)(C)	Max. ..	11,000	1999	25.35	2,788	5,000	5,000	16,000
Paperwork violation								
8 U.S.C. 1324a(e)(5) 8 CFR 274a.10(b)(2) 28 CFR 68.52(c)(5)	Min. ...	110	1999	25.35	28	100	0	110
8 U.S.C. 1324a(e)(5) 8 CFR 274a.10(b)(2)	Max. ..	1,100	1999	25.35	279	1,000	0	1,100
Violation relating to participating employer's failure to notify DHS of final nonconfirmation of employee's employment eligibility [Not previously adjusted]								
8 U.S.C. 1324a (note) 28 CFR 68.52(c)(6)	.....	500	enacted in 1997	29.97	150	10% cap by statute	50	550
8 U.S.C. 1324a (note) 28 CFR 68.52(c)(6)	.....	1,000	enacted in 1997	29.97	300	10% cap by statute	100	1,100
Unlawful employment of aliens, per person, first order								
8 U.S.C. 1324a(e)(4)(A)(i) 28 CFR 68.52(c)(1)(i)	Min. ...	275	1999	25.35	70	100	100	375
8 U.S.C. 1324a(e)(4)(A)(i) 28 CFR 68.52(c)(1)(i)	Max. ..	2,200	1999	25.35	558	1,000	1,000	3,200
Unlawful employment of aliens, per person, second order								
8 U.S.C. 1324a(e)(4)(A)(ii) 28 CFR 68.52(c)(1)(ii)	Min. ...	2,200	1999	25.35	558	1,000	1,000	3,200
8 U.S.C. 1324a(e)(4)(A)(ii) 28 CFR 68.52(c)(1)(ii)	Max. ..	5,500	1999	25.35	1,394	1,000	1,000	6,500
Unlawful employment of aliens, per person, subsequent order								
8 U.S.C. 1324a(e)(4)(A)(ii) 28 CFR 68.52(c)(1)(ii)	Min. ...	3,300	1999	25.35	836	1,000	1,000	4,300
8 U.S.C. 1324a(e)(4)(A)(iii) 28 CFR 68.52(c)(1)(iii)	Max. ..	11,000	1999	25.35	2,788	5,000	5,000	16,000
Violation/prohibition of indemnity bonds								
8 U.S.C. 1324a(g)(2) 8 CFR 274a.8(b) 28 CFR 68.52(c)(7)	.....	1,100	1999	25.35	279	1,000	0	1,100
Document fraud, first order—for violations described in 8 U.S.C. 1324c(a)(1)–(4)								
8 U.S.C. 1324c(d)(3)(A) 8 CFR 270.3(b)(1)(ii)	.....	275	1999	25.35	70	100	100	375

Statute	Min/Max	Current penalty	Year last adjusted	CPI factor (2008) (percent)	Raw increase (2008)	Rounder	Rounded increase	Adjusted penalty
8 U.S.C. 1324c(d)(3)(A) 8 CFR 270.3(b)(1)(ii)	.....	2,200	1999	25.35	558	1,000	1,000	3,200
Document fraud, subsequent order—for violations described in 8 U.S.C. 1324c(a)(1)–(4)								
8 U.S.C. 1324c(d)(3)(B) 8 CFR 270.3(b)(1)(ii)	.....	2,200	1999	25.35	558	1,000	1,000	3,200
8 U.S.C. 1324c(d)(3)(B) 8 CFR 270.3(b)(1)(ii)	.....	5,500	1999	25.35	1,394	1,000	1,000	6,500
Document fraud, first order—for violations described in 8 U.S.C. 1324c(a)(5)–(6) [Not previously adjusted.]								
8 U.S.C. 1324c(d)(3)(A) 8 CFR 270.3(b)(1)(ii)	.....	250	enacted in 1997	29.97	75	10% cap by statute	25	275
8 U.S.C. 1324c(d)(3)(A) 8 CFR 270.3(b)(1)(ii)	.....	2,000	enacted in 1997	29.97	599	10% cap by statute	200	2,200
Document fraud, subsequent order—for violations described in 8 U.S.C. 1324c(a)(5)–(6) [Not previously adjusted.]								
8 U.S.C. 1324c(d)(3)(B) 8 CFR 270.3(b)(1)(ii)	.....	2,000	enacted in 1997	29.97	599	10% cap by statute	200	2,200
8 U.S.C. 1324c(d)(3)(B) 8 CFR 270.3(b)(1)(ii)	.....	5,000	enacted in 1997	29.97	1,498	10% cap by statute	500	5,500
Unfair immigration-related employment practices, per person, first order								
8 U.S.C. 1324b(g)(2)(B)(iv)(I) 28 CFR 68.52(d)(1)(viii)	Min. ...	275	1999	25.35	70	100	100	375
8 U.S.C. 1324b(g)(2)(B)(iv)(I) 28 CFR 68.52(d)(1)(viii)	Max. ..	2,200	1999	25.35	558	1,000	1,000	3,200
Unfair immigration-related employment practices, per person, second order								
8 U.S.C. 1324b(g)(2)(B)(iv)(II) 28 CFR 68.52(d)(1)(ix)	Min. ...	2,200	1999	25.35	558	1,000	1,000	3,200
8 U.S.C. 1324b(g)(2)(B)(iv)(II) 28 CFR 68.52(d)(1)(ix)	Max. ..	5,500	1999	25.35	1,394	1,000	1,000	6,500
Unfair immigration-related employment practices, per person, subsequent order								
8 U.S.C. 1324b(g)(2)(B)(iv)(III). 28 CFR 68.52(d)(1)(x)	Min. ...	3,300	1999	25.35	836	1,000	1,000	4,300
8 U.S.C. 1324b(g)(2)(B)(iv)(III). 28 CFR 68.52(d)(1)(x)	Max. ..	11,000	1999	25.35	2,788	5,000	5,000	16,000
Unfair immigration-related employment practices, document abuse								
8 U.S.C. 1324b(g)(2)(B)(iv)(IV). 28 CFR 68.52(d)(1)(xii)	Min. ...	110	1999	25.35	28	100	0	110
8 U.S.C. 1324b(g)(2)(B)(iv)(IV). 28 CFR 68.52(d)(1)(xii)	Max. ..	1,100	1999	25.35	279	1,000	0	1,100

Again, these changes are being made pursuant to a detailed statutory formula that does not allow for any discretion or any variances from the results calculated. The higher civil penalty amounts will be effective for violations occurring on or after the effective date of these rules. For violations occurring prior to the effective date of these rules, the civil penalty amounts set forth in

the current regulations will continue to apply.²

² The current regulations, which implemented the last set of inflation adjustments in 1999, also include the ranges of civil penalty amounts for violations that occurred prior to the adjustment; that is, for violations that occurred prior to September 29, 1999, as well as violations that occurred after the 1999 adjustments were adopted. At this point, the revised regulations being adopted in these final rules do not set forth the civil penalty amounts for violations that occurred prior to the adoption of the adjusted civil penalty schedules in 1999, more than 8 years ago. Title 28 of the United States Code contains a “general” four-year statute

These rules fulfill the obligations of the Secretary and the Attorney General under the Adjustment Act, as amended, to adjust for inflation the civil monetary penalties under these three statutory provisions for which both Departments

of limitations for civil actions where no precise statute of limitations has been specified. 28 U.S.C. 1658. In any event, the amounts of the civil penalties for violations occurring prior to the adoption of the 1999 regulations have already been codified in the regulations as they were in effect from 1999 until the day before the effective date of these new rules.

have implementing responsibilities. In separate rulemaking actions in the future, the Secretary will be adjusting other civil money penalties that are within the responsibility of DHS, and the Attorney General will be adjusting other civil money penalties that are within the responsibility of the Department of Justice. See, e.g., 8 CFR 280.53; 28 CFR part 85.

IV. Regulatory Analyses

Administrative Procedure Act, 5 U.S.C. 553

The Secretary and the Attorney General find that good cause exists under 5 U.S.C. 553(b)(3)(B) for immediate implementation of these final rules without prior notice and comment. These rules are a nondiscretionary ministerial action to conform the amount of civil penalties assessed or enforced by the Department of Homeland Security and the Department of Justice according to the statutorily mandated ranges as adjusted for inflation. The Secretary and the Attorney General are under a legal obligation to adjust these civil penalties for inflation. The calculation of these inflation adjustments follows the specific mathematical formula set forth in section 5 of the Adjustment Act.

Regulatory Flexibility Act

The Secretary and the Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), have reviewed these rules and by approving them certify that they will not have a significant economic impact on a substantial number of small entities. Only those entities which are determined to have violated Federal law and regulations would be affected by the inflation adjustments made by these rules, pursuant to the statutory requirement under the Adjustment Act, for the penalties imposed under sections 274A, 274B, and 274C of the INA.

Executive Order 12866—Regulatory Planning and Review

These rules have been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Secretary and the Attorney General have determined that these rules are not “significant regulatory actions” under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly these rules have not been reviewed by the Office of Management and Budget.

Executive Order 13132—Federalism

These rules will not have substantial direct effects on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that these rules do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform

These rules meet the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

These rules will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

These rules are not major rules as defined by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. These rules will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to these rules because there are no new or revised recordkeeping or reporting requirements.

List of Subjects

8 CFR Part 270

Administrative practice and procedure, Immigration, Law enforcement.

8 CFR Part 274a

Administrative practice and procedure, Immigration, Law enforcement.

8 CFR Part 280

Administrative practice and procedure, Immigration, Law enforcement.

8 CFR Part 1274a

Administrative practice and procedure, Immigration.

28 CFR Part 68

Administrative practice and procedure, Aliens, Citizenship and naturalization, Civil Rights, Discrimination in employment, Employment, Equal employment opportunity, Immigration, Nationality, Non-discrimination.

Department of Homeland Security

8 CFR Chapter I

■ Accordingly, for the reasons set forth in the preamble and pursuant to my authority as Secretary of Homeland Security, parts 270, 274a, and 280 of chapter I of title 8 of the Code of Federal Regulations are amended as follows:

PART 270—PENALTIES FOR DOCUMENT FRAUD

■ 1. The authority citation for part 270 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, and 1324c; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

■ 2. Section 270.3 is amended by revising paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B), and adding paragraphs (b)(1)(ii)(C) and (b)(1)(ii)(D), to read as follows:

§ 270.3 Penalties.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) *First offense under section 274C(a)(1) through (a)(4).* Not less than \$275 and not exceeding \$2,200 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before March 27, 2008, and not less than \$375 and not exceeding \$3,200 for each fraudulent document or each proscribed activity on or after March 27, 2008.

(B) *First offense under section 274C(a)(5) or (a)(6).* Not less than \$250 and not exceeding \$2,000 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act before March 27, 2008, and not less than \$275 and not exceeding \$2,200, for each fraudulent document or each proscribed activity on or after March 27, 2008.

(C) *Subsequent offenses under section 274C(a)(1) through (a)(4).* Not less than \$2,200 and not more than \$5,500 for

each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before March 27, 2008, and not less than \$3,200 and not exceeding \$6,500, for each fraudulent document or each proscribed activity occurring on or after March 27, 2008.

(D) *Subsequent offenses under section 274C(a)(5) or (a)(6)*. Not less than \$2,000 and not more than \$5,000 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act before March 27, 2008, and not less than \$2,200 and not exceeding \$5,500, for each fraudulent document or each proscribed activity occurring on or after March 27, 2008.

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

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

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

■ 4. Section 274a.10 is amended by revising paragraphs (b)(1)(ii)(A), (b)(1)(ii)(B), and (b)(1)(ii)(C) to read as follows:

§ 274a.10 Penalties.

* * * * *

- (b) * * *
- (1) * * *
- (ii) * * *

(A) First offense—not less than \$275 and not more than \$2,200 for each unauthorized alien with respect to whom the offense occurred before March 27, 2008, and not less than \$375 and not exceeding \$3,200, for each unauthorized alien with respect to whom the offense occurred occurring on or after March 27, 2008;

(B) Second offense—not less than \$2,200 and not more than \$5,500 for each unauthorized alien with respect to whom the second offense occurred before March 27, 2008, and not less than \$3,200 and not more than \$6,500, for each unauthorized alien with respect to whom the second offense occurred on or after March 27, 2008; or

(C) More than two offenses—not less than \$3,300 and not more than \$11,000 for each unauthorized alien with respect to whom the third or subsequent offense occurred before March 27, 2008 and not less than \$4,300 and not exceeding \$16,000, for each unauthorized alien with respect to whom the third or subsequent offense occurred on or after March 27, 2008; and

* * * * *

PART 280—IMPOSITION AND COLLECTION OF FINES

■ 5. The authority citation for part 280 continues to read as follows:

Authority: 8 U.S.C. 1103, 1221, 1223, 1227, 1229, 1253, 1281, 1283, 1284, 1285, 1286, 1322, 1323, and 1330; 66 Stat. 173, 195, 197, 201, 203, 212, 219, 221–223, 226, 227, 230; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

§ 280.53 [Amended].

■ 6. Section 280.53 is amended by removing and reserving paragraph (d)(3).

Department of Justice

■ Accordingly, for the reasons set forth in the preamble and pursuant to my authority as Attorney General, part 1274a of chapter V of title 8 of the Code of Federal Regulations and part 68 of chapter I of title 28 of the Code of Federal Regulations are amended as follows:

8 CFR Chapter V

PART 1274a—CONTROL OF EMPLOYMENT OF ALIENS

■ 1. The authority citation for part 1274a is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a.

■ 2. Section 1274a.10 is revised to read as follows:

§ 1274a.10 Penalties.

The regulations pertaining to the imposition of penalties for violations of the provisions of section 274A of the Immigration and Nationality Act are contained in 8 CFR part 274a and 28 CFR part 68.

28 CFR Chapter I

PART 68—RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE ADMINISTRATIVE LAW JUDGES IN CASES INVOLVING ALLEGATIONS OF UNLAWFUL EMPLOYMENT OF ALIENS, UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES, AND DOCUMENT FRAUD

■ 3. The authority citation is revised to read as follows:

Authority: 5 U.S.C. 301, 554; 8 U.S.C. 1103, 1324a, 1324b, and 1324c; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

■ 4. In § 68.52, revise paragraphs (c)(1)(i), (c)(1)(ii), (c)(1)(iii), (c)(6), (d)(1)(viii), (d)(1)(ix), (d)(1)(x), (e)(1)(i), and (e)(1)(ii) and add paragraphs (e)(1)(iii) and (iv) to read as follows:

§ 68.52 Final order of the Administrative Law Judge.

* * * * *

(c) * * *

(1) * * *

(i) Not less than \$275 and not more than \$2,200 for each unauthorized alien with respect to whom there was a violation of either such paragraph occurring before March 27, 2008; not less than \$375 and not more than \$3,200 for each unauthorized alien with respect to whom there was a violation of either such paragraph occurring on or after March 27, 2008;

(ii) In the case of a person or entity previously subject to one final order under this paragraph (c)(1), not less than \$2,200 and not more than \$5,500 for each unauthorized alien with respect to whom there was a violation of either such paragraph occurring before March 27, 2008, and not less than \$3,200 and not more than \$6,500 for each unauthorized alien with respect to whom there was a violation of either such paragraph occurring on or after March 27, 2008; or

(iii) In the case of a person or entity previously subject to more than one final order under paragraph (c)(1) of this section, not less than \$3,300 and not more than \$11,000 for each unauthorized alien with respect to whom there was a violation of each such paragraph occurring before March 27, 2008, and not less than \$4,300 and not more than \$16,000 for each unauthorized alien with respect to whom there was a violation of each such paragraph occurring on or after March 27, 2008.

* * * * *

(6) With respect to a violation of section 274A(a)(1)(B) of the INA where a person or entity participating in a pilot program has failed to provide notice of final nonconfirmation of employment eligibility of an individual to the Attorney General as required by Pub. L. 104–208, Div. C, section 403(a)(4)(C), 110 Stat. 3009, 3009–661 (1996) (codified at 8 U.S.C. 1324a (note)), the final order under this paragraph shall require the person or entity to pay a civil penalty in an amount of not less than \$500 and not more than \$1,000 for each individual with respect to whom such violation occurred before March 27, 2008, and not less than \$550 and not more than \$1,100 for each individual with respect to whom such violation occurred on or after March 27, 2008.

* * * * *

(d) * * *

(1) * * *

* * * * *

(viii) Except as provided in paragraph (d)(1)(xii) of this section, to pay a civil penalty of not less than \$275 and not more than \$2,200 for each individual discriminated against before March 27, 2008, and not less than \$375 and not more than \$3,200 for each individual discriminated against on or after March 27, 2008;

(ix) Except as provided in paragraph (d)(1)(xii) of this section, in the case of a person or entity previously subject to a single final order under section 274B(g)(2) of the INA, to pay a civil penalty of not less than \$2,200 and not more than \$5,500 for each individual discriminated against before March 27, 2008, and not less than \$3,200 and not more than \$6,500 for each individual discriminated against on or after March 27, 2008;

(x) Except as provided in paragraph (d)(1)(xii) of this section, in the case of a person or entity previously subject to more than one final order under section 274B(g)(2) of the INA, to pay a civil penalty of not less than \$3,300 and not more than \$11,000 for each individual discriminated against before March 27, 2008, and not less than \$4,300 and not more than \$16,000 for each individual discriminated against on or after March 27, 2008;

* * * * *

(e) * * *

(1) * * *

(i) Not less than \$275 and not more than \$2,200 for each document that is the subject of a violation under section 274C(a)(1) through (4) of the INA before March 27, 2008, and not less than \$375 and not more than \$3,200 for each document that is the subject of a violation under section 274C(a)(1) through (4) of the INA on or after March 27, 2008;

(ii) Not less than \$250 and not more than \$2,000 for each document that is the subject of a violation under section 274C(a)(5) or (6) of the INA before March 27, 2008, and not less than \$275 and not more than \$2,200 for each document that is the subject of a violation under section 274C(a)(5) or (6) of the INA on or after March 27, 2008;

(iii) In the case of a respondent previously subject to one or more final orders under section 274C(d)(3) of the INA, not less than \$2,200 and not more than \$5,500 for each document that is the subject of a violation under section 274C(a)(1) through (4) of the INA before March 27, 2008, and not less than \$3,200 and not more than \$6,500 for each document that is the subject of a violation under section 274C(a)(1) through (4) of the INA on or after March 27, 2008; or

(iv) In the case of a respondent previously subject to one or more final orders under section 274C(d)(3) of the INA, not less than \$2,000 and not more than \$5,000 for each document that is the subject of a violation under section 274C(a)(5) or (6) of the INA before March 27, 2008, and not less than \$2,200 and not more than \$5,500 for each document that is the subject of a violation under section 274C(a)(5) or (6) of the INA on or after March 27, 2008.

* * * * *

Dated: January 23, 2008.

Michael B. Mukasey,

Attorney General, Department of Justice.

Dated: February 11, 2008.

Michael Chertoff,

Secretary, Department of Homeland Security.

[FR Doc. E8-3320 Filed 2-25-08; 8:45 am]

BILLING CODE 4410-10-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. APHIS-2006-0183]

RIN 0579-AC21

Brucellosis in Cattle; Research Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending brucellosis regulations by providing an exception in the definition of *herd* for animals held within a federally approved brucellosis research facility, in order to facilitate research on brucellosis-exposed or infected animals in those facilities. Prior to this rule, such animals constituted a herd, and the presence of brucellosis-positive herds within a State can adversely affect that State's brucellosis classification. By providing an exception for brucellosis-exposed or infected animals held within federally approved research facilities, this rule will enable initiation of necessary brucellosis research in Class Free States.

DATES: *Effective Date:* March 27, 2008.

FOR FURTHER INFORMATION CONTACT: Dr. Debra Donch, National Brucellosis Epidemiologist, National Center for Animal Health Programs, VS, APHIS, 4700 River Road, Unit 136, Riverdale, MD 20737-1231; (301) 734-5952.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and humans and caused by bacteria of the genus *Brucella*. The brucellosis regulations in 9 CFR part 78 (referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of *Brucella* infection present and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class A and Class B fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

In § 78.1, the regulations require that, to achieve and retain Class Free status, a State or area must have no cattle herds under quarantine. In the same section, *herd* is defined, in part, as "all animals under common ownership or supervision that are grouped on one or more parts of any single premises (lot, farm, or ranch)." Such a definition effectively precludes brucellosis research in Class Free States or areas, since infected animals may be used for such research, and the animals held in a research facility would be considered a herd under that definition of the term. Since expertise and infrastructure that could potentially benefit this country's brucellosis eradication efforts can be found in many Class Free States, this definition may impede the progress of brucellosis research and delay the eradication of the disease within the United States.

On December 13, 2006, we published in the **Federal Register** (71 FR 74826-74827) a proposal¹ to amend the definition of *herd* to create an exception for brucellosis-exposed or infected animals held within federally approved research facilities, so that such animals would no longer be considered a herd. We proposed this change to allow States to undertake brucellosis research

¹ To view the proposed rule and the comments we received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocumentDetail&d=APHIS-2006-0183>.

without adversely impacting their Class Free status.

We solicited comments concerning our proposal for 60 days, ending February 12, 2007. We received eight comments by that date, from six members of a brucellosis research team at a State university, a State department of agriculture and forestry, and a national scientific society.

All of the commenters supported the proposed rule. However, one of the commenters, noting our reference in the proposed rule to a series of guidelines established by the Animal and Plant Health Inspection Service (APHIS) and the Agricultural Research Service (ARS), recommended that those guidelines be integrated into the existing Federal approval guidelines for agricultural research facilities rather than creating a new Federal process.

This rule pertains solely to the system for classifying States or portions of States according to the rate of *Brucella* infection present and the general effectiveness of a brucellosis control and eradication program. It is not our intent to modify or replace the series of guidelines established by APHIS and ARS for approval of research facilities at this time.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Brucellosis is a contagious, costly disease of ruminants that also affects humans. Although brucellosis can infect other animals, it is primarily a threat to cattle, bison, and swine. In animals, the disease causes weight loss, decreased milk production, loss of young, infertility, and lameness. There is no cure for brucellosis in animals, nor is there a preventative vaccine that is 100 percent effective.

Given the potential for costly consequences related to an outbreak of brucellosis, additional research is needed in order to eradicate this disease. In 1952, when brucellosis was widespread throughout the United States, annual losses from lowered milk production, aborted calves and pigs, and reduced breeding efficiency were estimated at \$400 million. Subsequent studies show that if eradication efforts were stopped, the costs of producing beef and milk would increase by an

estimated \$80 million annually in less than 10 years.

We expect that the groups affected by this action will be herd owners and entities that operate brucellosis research facilities in Class Free States. To the extent that this rule allows for more research with the goal of eradicating brucellosis in the United States, it will benefit all herd owners over time. Brucellosis research facilities in Class Free States will be operated by the State in which they are located or exist as part of colleges and universities that have government contracts to conduct brucellosis research.

The latest agricultural census data show that there were 732,660 farms in the United States primarily engaged in beef cattle ranching and farming and dairy cattle and milk production that reported sales in 2002. Of those farms, more than 99 percent were classified as small entities according to Small Business Association (SBA) standards. There were 82,028 farms in the United States primarily engaged in raising hogs and pigs that reported sales in 2002. Of those farms, over 90 percent were classified as small entities by the SBA. Most, if not all, of the farms primarily engaged in bison production are classified as small entities under SBA standards. Accordingly, the majority of herd owners affected by this rule are considered small entities. For herd owners, any economic effects stemming from this rule will result from advances made toward the eradication of brucellosis in the United States. As such, these economic effects will be positive, but long-term and generalized.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 9 CFR part 78 as follows:

PART 78—BRUCELLOSIS

■ 1. The authority citation for part 78 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. In § 78.1, the definition of *herd* is revised to read as follows:

§ 78.1 Definitions.

* * * * *

Herd. (a) All animals under common ownership or supervision that are grouped on one or more parts of any single premises (lot, farm, or ranch); or

(b) All animals under common ownership or supervision on two or more premises which are geographically separated but on which animals from the different premises have been interchanged or had contact with each other.

(c) For the purposes of this part, the term *herd* does not include animals that are contained within a federally approved research facility.

* * * * *

Done in Washington, DC, this 20th day of February 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–3591 Filed 2–25–08; 8:45 am]

BILLING CODE 3410–34–P

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

[Docket No. FAA-2007-28941; Directorate Identifier 2006-NM-276-AD; Amendment 39-15386; AD 2008-04-14]

RIN 2120-AA64

Airworthiness Directives; Dassault Model Falcon 2000, Falcon 2000EX, Mystere-Falcon 900, Falcon 900EX, Fan Jet Falcon, Mystere-Falcon 50, Mystere-Falcon 20, and 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 Dassault Model Falcon 2000, Mystere-Falcon 900, Falcon 900EX, Fan Jet Falcon, Mystere-Falcon 50, Mystere-Falcon 20, and Falcon 10 series airplanes. That AD currently requires repetitive tests and inspections to detect discrepancies of the overwing emergency exit, and corrective action if necessary. This new AD expands the applicability of the existing AD and extends the repetitive test and inspection intervals for all airplanes. This AD results from reports of incorrect operation of the overwing emergency exit due to interference between the emergency exit and the interior accommodation. We are issuing this AD to prevent failure of the overwing emergency exits to open, and consequent injury to passengers or crewmembers during an emergency evacuation.

DATES: This AD becomes effective April 1, 2008.

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

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800-647-5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West

Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2000-12-15, amendment 39-11793 (65 FR 37480, June 15, 2000). The existing AD applies to all Dassault Model Falcon 2000, Mystere-Falcon 900, Falcon 900EX, Fan Jet Falcon, Mystere-Falcon 50, Mystere-Falcon 20, and Falcon 10 series airplanes. That NPRM was published in the **Federal Register** on August 16, 2007 (72 FR 45958). That NPRM proposed to continue to require repetitive tests and inspections to detect discrepancies of the overwing emergency exit, and corrective action if necessary. That NPRM also proposed to expand the applicability of the existing AD and extend the repetitive test and inspection intervals for all airplanes.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been received on the NPRM or on the determination of the cost to the public.

Change to the Final Rule

We have changed paragraph (f) of this final rule to specify that the actions required in that paragraph must be done in accordance with a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (or its delegated agent). In addition, we have specified Chapter 5 of the applicable airplane maintenance manuals as one approved method of compliance for doing the actions required by that paragraph.

Conclusion

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

Costs of Compliance

This AD affects about 870 airplanes of U.S. registry.

The actions that are required by AD 2000-12-15 and retained in this AD take about 1 work hour per airplane, at an average labor rate of \$80 per work hour. Based on these figures, the estimated cost of the currently required actions is \$80 per airplane, per test and inspection cycle.

The new required actions take about 1 work hour per airplane, at an average labor rate of \$80 per work hour. Based on these figures, the estimated cost of the new actions required by this AD for U.S. operators is \$69,600, or \$80 per airplane, per test and 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, 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 39–11793 (65 FR 37480, June 15, 2000) and by adding the following new airworthiness directive (AD):

2008–04–14 Dassault Aviation (Formerly Avions Marcel Dassault-Breguet Aviation (AMD/BA)): Amendment 39–15386. Docket No. FAA–2007–28941; Directorate Identifier 2006–NM–276–AD.

Effective Date

(a) This AD becomes effective April 1, 2008.

Affected ADs

(b) This AD supersedes AD 2000–12–15.

Applicability

(c) This AD applies to all Dassault Model Falcon 2000, Falcon 2000EX, Mystere-Falcon 900, Falcon 900EX, Fan Jet Falcon, Mystere-Falcon 50, Mystere-Falcon 20, Mystere-Falcon 200, and Falcon 10 airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of incorrect operation of the overwing emergency exit due to interference between the emergency exit and the interior accommodation. We are issuing this AD to prevent failure of the overwing emergency exits to open, and consequent injury to passengers or crewmembers during an emergency evacuation.

Compliance

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

Restatement of Requirements of AD 2000–12–15 With Revised Repetitive Interval

Operational Test and Inspection

(f) For Dassault Model Falcon 2000, Mystere-Falcon 900, Falcon 900EX, Fan Jet Falcon, Mystere-Falcon 50, Mystere-Falcon 20, Mystere-Falcon 200, and Falcon 10

airplanes: Within 30 days after July 20, 2000 (the effective date of AD 2000–12–15), perform an operational test and detailed inspection of the overwing emergency exit from inside the cabin to detect discrepancies (including separation, tearing, wearing, arcing, cracking) in the areas and components listed in Chapter 5 (ATA Code 52) of the applicable airplane maintenance manual (AMM). Accomplish the actions 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). If any discrepancy is detected during any test or inspection required by this paragraph, prior to further flight, repair in accordance with a method approved by the Manager, International Branch; or EASA (or its delegated agent). Chapter 5 (ATA Code 52) of the applicable AMM is one approved method for the actions required by this paragraph. Repeat the operational test and inspection thereafter at intervals not to exceed 24 months.

Note 1: 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.”

New Requirements of This AD

Operational Test and Inspection

(g) For Dassault Model Falcon 2000EX airplanes: Within 30 days after the effective date of this AD, perform the operational test and detailed inspection of the overwing emergency exit required by paragraph (f) of this AD. If any discrepancy is detected during any test or inspection required by this paragraph, prior to further flight, repair as required by paragraph (f). Repeat the operational test and inspection at intervals not to exceed 24 months.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, International Branch, 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.

Special Flight Permits

(i) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Related Information

(j) EASA airworthiness directives 2006–0147, 2006–0148, 2006–0149, and 2006–0156, all dated June 7, 2006, also address the subject of this AD.

Material Incorporated by Reference

(k) None.

Issued in Renton, Washington, on February 13, 2008.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–3403 Filed 2–25–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA–2007–0020; Amdt. No. 91–299]

RIN 2120–AJ14

Operation of Civil Aircraft of U.S. Registry Outside of the United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends certain regulations governing U.S. registered aircraft operating beyond the territorial airspace of the United States. This action is necessary to correct an error in the recodification of the regulations concerning general operating and flight rules. The intended effect of this action is to correct an inadvertent error in the regulations.

DATES: This action is effective February 26, 2008.

FOR FURTHER INFORMATION CONTACT: Nancy Lauck Claussen, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8166; facsimile (202) 267–5229, e-mail nancy.l.claussen@faa.gov.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

- (1) Searching the Federal eRulemaking portal at <http://www.regulations.gov>;
- (2) Visiting the FAA’s Regulations and Policies Web page at http://www.faa.gov/regulations_policies/; or
- (3) Accessing the Government Printing Office’s Web page at <http://www.gpoaccess.gov/fr/index.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 amendment number or docket number of this rulemaking.

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 Acting 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, Section 44701(a)(5), General Requirements. Under that section, the FAA is charged with prescribing regulations and minimum standards for other practices, methods, and procedure the Acting Administrator finds necessary for safety in air commerce and national security. This regulation is within the scope of that authority because it addresses operational requirements that support aviation safety.

Background

In August 1966, the FAA amended 14 CFR part 91 to prescribe rules that apply to civil aircraft of U.S. registry operating outside of the United States. This final rule made the general operating rules of Subpart A and the maintenance rules of Subpart C of Part 91 applicable to U.S. registered civil aircraft operations outside of, as well as within, the United States. (See 31 FR 8354; June 15, 1966.) Section 91.1, Applicability, was amended by adding paragraph (b)(3), which provided that "Each person operating a civil aircraft of U.S. registry outside of the United States shall * * * Except for §§ 91.15(b), 91.17, 91.38, and 91.43, comply with Subparts A and C of this part so far as they are not inconsistent with applicable regulations of the foreign country where the aircraft is operated or Annex 2 to the Convention on International Civil Aviation."

On August 18, 1989, the FAA issued a final rule that recodified Part 91 (54 FR 34284). The purpose of this action was to reorganize and clarify existing rules.¹ The FAA designated new § 91.703—Operations of civil aircraft of U.S. registry outside of the United States, and moved several paragraphs from § 91.1 relating to the operation of U.S. registered aircraft outside the U.S.

to the newly established § 91.703. Specifically, paragraph (b)(3) of § 91.1 was moved to § 91.703(a)(3). The FAA did not intend any substantive change to this paragraph.

As recodified, § 91.703 provides that "Each person operating a civil aircraft of U.S. registry outside of the United States shall * * * (3) Except for §§ 91.307(b), 91.309, 91.323, and 91.711, comply with this part so far as it is not inconsistent with applicable regulations of the foreign country where the aircraft is operated or annex 2 of the Convention of International Civil Aviation." Referring to "this part" instead of referring specifically to subparts A and C in part 91 substantively affects the regulatory requirements. Under the current language, except for the four noted exceptions, all the provisions of part 91 apply to U.S. registered aircraft operating outside of the United States.

The FAA has reviewed this matter, as it applies to the speed restrictions articulated in § 91.117(a).² The current regulatory text of § 91.703(a)(3) makes the speed restrictions of § 91.117(a) applicable to U.S. registered civil aircraft when operating outside the United States (and not within a foreign country). We conclude that the final rule in 1989 erroneously changed the requirements and that this result was unintended. This rule corrects that error. The FAA will further review Part 91 to determine whether there are similar issues that need to be addressed.

Good Cause for Immediate Adoption of This Final Rule

On the basis of the above information, the FAA finds that immediate action is necessary to correct the regulations to accurately depict the agency's intentions. As a practical matter, the FAA is aware that most of the affected industry was unaware of the literal effect of the recodification with respect to the speed restrictions contained in § 91.117(a). Until recently, the FAA was not aware of the error, and has proceeded from an operational perspective that the speed restrictions of § 91.117(a) do not apply to U.S. registered aircraft, via § 91.703(a)(3), when operating outside the U.S. (and not within another country's territorial airspace).³

² Section 91.117(a) provides that unless otherwise authorized by the Administrator, no person may operate an aircraft below 10,000 feet mean sea level (MSL) at an indicated airspeed of more than 250 knots (288 m.p.h.).

³ The FAA's Office of the Chief Counsel realized this issue in issuing an interpretation dated October 12, 2005 to Mr. Michael Di Marco, which concludes appropriately that the speed restriction of § 91.117(a) does in fact apply to U.S. registered civil aircraft when operating over the high seas under the

Because the circumstances described in this notice warrant immediate action by the FAA to correct and accurately depict the regulatory requirements, I find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, I find that good cause exists for making this rule effective immediately upon publication.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at our site, http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

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 is no new information collection requirement associated with this direct final rule.

An agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

Economic 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

current regulations. This interpretation was reaffirmed on April 10, 2007, in the agency's response to Mr. David Shacknai. Concurrent with the adoption of this final rule, the FAA will rescind the interpretation as it is no longer valid.

¹ The FAA also made four substantive changes to the regulations during this rulemaking that are not at issue in this rule.

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, this 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 annually (adjusted for inflation with base year of 1995).

In conducting these analyses, FAA has determined this rule— (1) Has benefits which do justify its costs, is not a “significant regulatory action” as defined in the Executive Order and is not “significant” as defined in DOT’s Regulatory Policies and Procedures; (2) will not have a significant impact on a substantial number of small entities; (3) reduces barriers to international trade; and (4) does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. These analyses, available in the docket, are summarized below.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact 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 final rule. The reasoning for this determination follows:

Since this final rule merely corrects an inadvertent error in the regulations, the expected outcome will be a minimal impact with positive net benefits, and a regulatory evaluation was not prepared. FAA has, therefore, determined that this final 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.

This final rule corrects an inadvertent error in the regulations. Its economic impact is minimal. Therefore, we certify that this action will not have a significant economic impact on a substantial number of small entities.

Therefore, as the FAA Acting Administrator, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

International 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 final rule and has determined that it will impose no costs on domestic and international

entities and thus has a neutral trade impact.

Unfunded Mandates Assessment

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 final rule does not contain such a mandate.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or 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 final rule does 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 paragraph 312f and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule 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.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180).

■ 2. Amend § 91.703 by revising paragraph (a)(3) to read as follows:

§ 91.703 Operations of civil aircraft of U.S. registry outside of the United States.

(a) * * *

(3) Except for §§ 91.117(a), 91.307(b), 91.309, 91.323, and 91.711, comply with this part so far as it is not inconsistent with applicable regulations of the foreign country where the aircraft is operated or annex 2 of the Convention on International Civil Aviation; and

* * * * *

Issued in Washington, DC on February 15, 2008.

Robert A. Sturgell,

Acting Administrator.

[FR Doc. E8–3583 Filed 2–25–08; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**14 CFR Part 1266**

[NOTICE: (08–014)]

RIN 2700–AB51

Cross-Waiver of Liability

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The National Aeronautics and Space Administration (NASA) is amending its regulations which provide the regulatory basis for cross-waiver provisions used in the following two categories of NASA agreements: agreements for International Space Station (ISS) activities pursuant to the “Agreement Among the Government of

Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station” (commonly referred to as the ISS Intergovernmental Agreement, or IGA); and launch agreements for science or space exploration activities unrelated to the ISS.

DATES: *Effective Date:* These amendments become effective April 28, 2008.

FOR FURTHER INFORMATION CONTACT:

Steven A. Mirmina, Senior Attorney, Office of the General Counsel, NASA Headquarters, 300 E Street, SW., Washington, DC 20546; telephone: 202/358–2432; e-mail:

steve.mirmina@nasa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On October 23, 2006, NASA published a notice of proposed rulemaking (NPRM), Cross-Waiver of Liability, 71 FR (**Federal Register**) 62061 (October 23, 2006), which discussed the background of Part 1266 and the use of cross-waivers in various NASA agreements. The NPRM also explained the considerations underlying NASA’s proposed amendments to Part 1266, which were: (1) To update and ensure consistency in the use of cross-waiver of liability provisions in NASA agreements; and (2) to address shifts in areas of NASA mission and program emphases that warrant an adjustment of the NASA cross-waiver provisions so that they remain current.

II. Description of Final Rule and Discussion of Comments

In this Final Rule, NASA makes clerical edits to the wording in sections 1266.100 (Purpose) and 1266.101 (Scope). In sections 1266.102 (Cross-waiver of liability for agreements for activities related to the International Space Station) and 1266.104 (Cross-waiver of liability for launch agreements for science or space exploration activities unrelated to the International Space Station), NASA generally makes clerical changes, adds a new definition of the term “transfer vehicle,” defines the term “Party” in section 1266.102 and revises the term’s definition in section 1266.104, clarifies the scope of the sixth group of potential claims to which the cross-waiver of liability shall not apply, and deletes the specific reference to Expendable and Reusable Launch Vehicles (ELVs and RLVs, respectively) from section 1266.104.

In response to the NPRM of October 23, 2006, NASA received comments from four entities: The Boeing Company (Boeing); Marsh USA, Inc. (Marsh); United Space Alliance (USA); and the European Space Agency, which subsequently withdrew its comments. In general, the commenters supported the proposed amendments, but with several suggested changes. The commenters also submitted some general questions about the Rule. In an effort to provide additional information on its intentions and plans, NASA will address these questions in section M in this document.

A. Deleting Section 14 CFR 1266.103

In the NPRM, NASA proposed deleting section 1266.103, regarding the cross-waiver of liability during Space Shuttle (Shuttle) operations, in light of direction from President George W. Bush that the Shuttle be retired from service by 2010 and the fact that, with the exception of the fifth Hubble Servicing Mission, currently scheduled for August 2008, current mission plans envision no other Shuttle missions unrelated to the ISS. Because the ISS cross-waiver in section 1266.102 covers Shuttle operations for missions to the ISS, NASA determines that there is no longer a need to retain the section of Part 1266 requiring a separate cross-waiver of liability to be used during Shuttle operations. The commenters urged NASA to retain section 1266.103 for as long as Shuttle operations continue and prime contracts and subcontracts with cross-waiver and indemnity provisions remain in place. The commenters contend that although current mission plans envision no other non-ISS missions for the Shuttle, those plans could change and therefore it would be premature to delete section 1266.103. One commenter noted that the Shuttle program “may be extended for up to an additional five years if the options under the current Space Program Operations Contract are fully exercised, with unknown missions into the future.” (Marsh at page 2)

Having reviewed and considered the points raised by the commenters, NASA will proceed with the removal of section 1266.103 for several legal and policy reasons. With the exception of the fifth Hubble Servicing Mission, NASA has stated that the remaining Shuttle flights will be dedicated solely to ISS missions.¹ Since any NASA agreements

¹ See, for example, the Written Statement of Michael D. Griffin, Administrator, National Aeronautics and Space Administration, Before the Senate Commerce, Science and Transportation

for Shuttle missions to the ISS would already be covered by section 1266.102, which governs cross-waivers of liability for agreements for activities related to ISS, there is no longer a need to retain section 103.

Indeed, for future missions, retention of section 103 could potentially result in less-than-fully reciprocal waivers of liability among users involved in Shuttle launch activities (since the scope of "Protected Space Operations" under section 103 is broader than the scope of "Protected Space Operations" under section 102). Under section 103, the cross-waiver encompasses parties to any NASA agreement for Shuttle launch services; however, the cross-waiver established by the IGA, and implemented by section 102, encompasses only parties to agreements for ISS activities. If NASA were to prolong the use of cross-waivers under section 103 for non-ISS Shuttle missions, while parties to agreements for Shuttle missions to the ISS remain bound by cross-waivers under section 102, parties to agreements for the non-ISS missions would be waiving claims against ISS participants but, conversely, ISS participants would not necessarily be waiving claims against them. The potential for less than fully reciprocal waivers has existed since the Rule first went into effect in 1991, but has resulted in no actual conflicts. This is due primarily to the fact that the Shuttle was rapidly transitioned from performing orbital missions on a cooperative or reimbursable basis to being dedicated almost exclusively to ISS assembly. However, the potential existence of less-than-fully reciprocal waivers should not continue. Section 309 of the Space Act,² codified at 42 U.S.C. § 2458c, confirms and clarifies the authority of the NASA Administrator to conclude reciprocal cross-waivers in cooperative agreements. To reduce the potential for inconsistency among NASA mission agreements containing cross-waiver provisions of differing scope, NASA has decided to remove section 103.

Although NASA has stated that, with the exception of the Hubble Servicing Mission, the Shuttle is to be used solely for servicing the ISS (and, thus, all NASA agreement cross-waivers for ISS Shuttle missions will be based on the provisions of section 102), the question remains: what would NASA do if the Agency is subsequently authorized to use the Shuttle for an activity unrelated

to the ISS? In this hypothetical case, the provisions of section 104, which provide the regulatory basis for cross-waivers of liability for launch agreements for science or space exploration activities unrelated to the ISS, could be utilized.

NASA is mindful of the concerns raised by industry relative to maintaining stability in Shuttle contracts. In this regard, for as long as Shuttle operations continue and prime contracts and subcontracts remain in place, the risk allocation provisions of those contracts, like all other provisions of those contracts, will continue to be operative. With respect to NASA's implementation of changes to the NASA procurement regulations, the Proposed Rule provided that, "To be made fully effective, the cross-waivers required by this Part will necessitate concomitant changes to NASA procurement regulations. NASA plans to implement these changes as expeditiously as possible after this Proposed Rule becomes final." In response to the NPRM, NASA was asked whether there is a schedule for implementation of the changes to the corresponding clauses in the NASA Federal Acquisition Regulation (FAR) Supplement (NFS) to reflect the current revisions to 14 CFR 1266. NASA plans to alter the NASA procurement regulations, i.e., the NFS, soon after this Rule becomes final.

B. Defining the Term "Party" in Section 1266.102

NASA received the comment that the term "Party" in section 1266.102 was not defined and that a definition was necessary to apply the cross-waiver requirements to NASA ISS contractors. The comment suggested that the term "Party" be defined as follows: "'Party' means a person or entity that signs an agreement involving the ISS."

NASA agrees that defining the term "Party" in section 1266.102 would add clarity to the Rule. Thus, NASA will define the term "Party" in 1266.102 as follows: "The term 'Party' means a party to a NASA agreement involving activities in connection with the ISS." The definition will be placed in subsection 1266.102(b)(1) in order to make parallel the order of definitions in section 1266.102 and in section 1266.104. The definition of the term "Partner State," which was formerly located in 1266.102(b)(1), will be moved to a new subsection 1266.102(b)(8).

C. Tailoring the Scope of the Cross-waiver

NASA received the comment that subsections 1266.102(a) and 1266.104(a) contain a misleading sentence:

"Provided that the waiver of claims is reciprocal, the parties may tailor the scope of the cross-waiver clause in these agreements to address the specific circumstances of a particular cooperation." The commenter contended that this sentence is not clear and could lead to inconsistent waivers in NASA agreements.

NASA understands the concern and will strike the sentence proposed in the NPRM. As background, the authority to tailor cross-waiver provisions is a feature of certain framework agreements between the U.S. and other countries for cooperation in the exploration and use of outer space. These international agreements cover a wide range of activities, ranging from launching missions into outer space to simple terrestrial activities (e.g., exchanges of data). For a simple terrestrial data exchange, it is not necessary to utilize a cross-waiver provision as extensive as what would be needed in an agreement to launch a spacecraft and, thus, in the context of a framework agreement, the sentence is appropriate. However, for purposes of this Rule, which addresses high-risk launches to, and operations in, outer space, NASA agrees with the commenters on the need for consistent cross-waivers in this specific area.

D. Relocating the Sentence Regarding the Term "Related Entity"

NASA received the comment that the following sentence was misplaced in subsection 1266.102(b)(2)(iii): "The term 'related entity' may also apply to a State, or an agency or institution of a State, having the same relationship to a Partner State as described in paragraphs (b)(2)(i) through (b)(2)(iii) of this section or otherwise engaged in the implementation of Protected Space Operations as defined in paragraph (b)(3)(iv) of this section." The comment pointed out that the sentence may have been erroneously inserted into subparagraph (b)(2)(iii) before the final sentence of that subparagraph "* * * The term 'contractors' and 'subcontractors' include suppliers of any kind." The comment suggested that it should follow subparagraph (iii) as a separate statement or subparagraph. NASA agrees with the comment and has revised the Rule as suggested. The sentence defining contractors and subcontractors to include suppliers serves as a general clarification of the term "related entity" and should stand alone, thus, applying to all three subsections, rather than being included as part of one of the subsections as formerly drafted. NASA will also make a corresponding change in subsection 1266.104(b)(2).

Committee—Subcommittee on Space, Aeronautics, and Related Sciences, November 15, 2007.

² The National Aeronautics and Space Act of 1958, as amended, 42 U.S.C. 2451, *et seq.*

E. Clarifying "This Agreement" Versus "the Agreement"

NASA received the comment that the use of the term "this Agreement" was confusing in subsection 1206.102(c)(4)(ii) in the parenthetical language to the second exception of the cross-waiver, i.e., "Claims made by a natural person, his/her estate, survivors or subrogees (except when a subrogee is a Party to this Agreement or is otherwise bound by the terms of this cross-waiver)* * *" (italics added) The term "this Agreement" appears in a related context in subsection 1206.104(c)(4)(ii). The comment queried whether the word "Agreement" should be capitalized and whether it should be a defined term.

NASA understands the source of this confusion and will correct both sections to read "the agreement" rather than "this Agreement," as recommended by the comment. It may be useful in this context to recall a principal purpose of this Rule. Rather than prescribing standard text to be inserted automatically into a NASA agreement, the regulation instead provides the regulatory basis for cross-waiver clauses to be incorporated into NASA agreements either related to the ISS (section 102) or for launch agreements involving science or space exploration activities unrelated to the ISS (section 104). As such, when a specific cross-waiver is incorporated into a NASA agreement, several conforming changes will need to be made to the text as it appears in this Rule. For one, references in the Rule to "the agreement" (referring to a NASA agreement in which a cross-waiver provision will be inserted) will need to be changed to "this Agreement" in the text of the agreement itself. It seems unnecessary to define the term "the agreement," because it should be evident that the agreement being referred to is the Space Act agreement containing the cross-waiver. In this context, it may also be useful to clarify that the agreements to which this Rule applies are agreements concluded pursuant to NASA's authority under sections 203(c)(5) and (c)(6) of the Space Act. These agreements do not include procurement contracts governed by the Federal Acquisition Regulations System, 48 CFR Part 1 *et seq.*

F. Defining the Terms "ELV" and "RLV"

Another comment NASA received recommended that the definition of "launch vehicle" found in 1266.104(b)(4) be amended to specifically include ELVs and RLVs. After further consideration, NASA has determined that the proposed change is unnecessary. The term "launch vehicle"

is defined as "an object or any part thereof intended for launch, launched from Earth, or returning to Earth which carries payloads or persons or both." ELVs and RLVs are already included in this definition. A fundamental premise of NASA cross-waivers of liability is that they are to be broadly construed to achieve the desired objectives of furthering space exploration, use, and investment. One way to further this goal is to avoid unnecessary, narrow delineations in terminology. For example, the term "Expendable Launch Vehicles" should encompass Evolved Expendable Launch Vehicles (EELV). An EELV is one type of ELV. Similarly, ELVs and RLVs, for that matter, are types of launch vehicles. Thus, there appears to be no compelling reason why ELVs and RLVs should be separately defined.

Indeed, the comment prompted reexamination of the title to section 1226.104 which, at the Proposed Rule stage, was "Cross-waiver of liability for science and space exploration agreements for missions launched by Expendable Launch Vehicles or Reusable Launch Vehicles." In order to streamline the Rule and avoid unnecessary, narrow delineations in terminology, NASA has decided to delete the reference in section 1266.104 to whether vehicles launching science or space exploration missions are expendable or reusable. Two factors led to this conclusion: (1) NASA would utilize the same cross-waiver for science or space exploration missions unrelated to the ISS, irrespective of the type of vehicle selected to launch the mission into orbit; and (2) NASA has no current plans to develop a fully reusable launch vehicle. Although the Shuttle has both expendable and reusable components, technically the vehicle is neither an Expendable nor a fully Reusable Launch Vehicle. Vehicles being developed in the Constellation program will utilize a mix of reusable and expendable components. Thus, the title of section 1266.104 has been changed to "Cross-waiver of liability for launch agreements for science or space exploration activities unrelated to the International Space Station." This formulation closely parallels the title to section 1266.102 "Cross-waiver of liability for agreements for activities related to the International Space Station." Deletion of the reference to the specific type of vehicle used to launch a science or space exploration mission into orbit necessitates a corresponding change to the definition of "Party" in section 104, as is explained in section G.

G. Revising the Term "Party" in Section 1266.104

As mentioned in the previous section, NASA will alter the definition of the term "Party" to reflect the deletion of the reference to ELVs and RLVs from section 104 and clarify the Rule's application. Thus, NASA will revise the definition proposed in the NPRM as follows: "The term 'Party' means a party to a NASA agreement for science or space exploration activities unrelated to the ISS that involve a launch."

Secondly, in response to the NPRM, NASA received a comment which suggested that the definition of the term "Party" in section 1266.104 be revised from "a party to a NASA agreement* * *" to read "person or entity." While the rationale for the comment is not entirely clear, it appears that the comment may be confusing the term "Party" with subsequent references to "persons" or "entities" referenced later in the Rule, i.e., in the terms of the actual cross-waiver found in subsection (c)(1) "This cross-waiver shall apply only if the person, entity, or property causing the damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations" (emphasis added). The terms are distinct. A "Party" is a defined term—a party to a NASA agreement. However, entities other than parties to NASA agreements could potentially be injured by a particular activity. For this reason, the cross-waiver is carefully constructed to identify those within its scope. The terms "persons" or "entities" are descriptive and generic; they refer to persons (real or juridical) who may be involved in or brought into Protected Space Operations by virtue of their activities.

H. Clarifying the Duration of "Protected Space Operations"

NASA received the identical comment from Boeing, Marsh, and USA that, in subsection 1266.104(b)(6), NASA should not proceed with removal of the following sentence: "Protected Space Operations begins at the signature of the agreement and ends when all activities done in implementation of the agreement are completed." All three commenters asserted that this change should be rejected, because "[t]his restricts the scope of cross-waivers for the protection of NASA ELV or RLV contractors and sub-contractors." (See USA comments at page 5, Marsh comments at page 4, and Boeing comments at page 2.)

NASA accepts these suggestions and will retain the sentence in the Final Rule. The proposed deletion had been grounded in recognition that, as a general matter, the cross-waiver in any NASA agreement becomes effective, like all terms of any agreement unless otherwise specified, at the time the agreement itself becomes effective and ends upon termination or expiration of the agreement. However, the sentence is useful in clarifying that the obligations of the agreement's cross-waiver will survive expiration or termination of the agreement itself, since Protected Space Operations does not end until all activities done in implementation of the agreement are completed. Although NASA agreements typically include a "Continuing Obligations" clause recognizing that certain obligations of the parties, including those related to liability and risk of loss, shall continue to apply after expiration or termination of the agreement, it is useful to retain this express acknowledgement in the text of the waiver itself.

I. Defining the Term "Transfer Vehicle"

In subsection 1266.104(b)(6)(i), "Protected Space Operations" is defined to include: "Research, design, development, test, manufacture, assembly, integration, operation, or use of launch or transfer vehicles, payloads, or instruments, as well as related support equipment and facilities and services." (Emphasis supplied.) One comment recommended that the term "transfer vehicle" required definition. The comment contended that a clarification would enhance understanding of the Rule and its applicability to other vehicles being developed under the Constellation program and otherwise. In the current definition section, the term "launch vehicle" (defined as "an object or any part thereof intended for launch, launched from Earth, or returning to Earth which carries payloads or persons, or both") addresses vehicles that operate between the Earth and space, but does not address vehicles intended to operate solely in outer space.

NASA agrees that defining the term "transfer vehicle" would add clarity to the Rule. Moreover, as a logical corollary of defining transfer vehicles, NASA has decided to clarify the Rule's application to landers. NASA's planned successor to the Shuttle, the Orion spacecraft, would feature, for its lunar landing missions, a Lunar Surface Access Module (LSAM). In NASA's view, when the LSAM or any transfer vehicle is launched, it would be a payload and, thus, within the existing definition of Protected Space

Operations. The term "payload" is broadly defined to include "all property to be flown or used on or in a launch vehicle." However, when a lander or transfer vehicle becomes operational, it could no longer be considered a "payload" but, rather, a space vehicle.

NASA will insert the following new definition of "transfer vehicle" in subsection 1266.104(b)(9): "The term 'transfer vehicle' means any vehicle that operates in space and transfers payloads or persons or both between two different space objects, between two different locations on the same space object, or between a space object and the surface of a celestial body. A transfer vehicle also includes a vehicle that departs from and returns to the same location on a space object." Pursuant to this definition, a "transfer vehicle" would include a lander that had become operational, since landers operate between a space object and the surface of a celestial body. Before it becomes operational, the lander would be considered a payload. For purposes of this Rule, it is not necessary to define the precise point when the LSAM becomes operational, because it would be within Protected Space Operations at launch as a payload and then, subsequently, as a transfer vehicle. In either case, it would fall within the definition of Protected Space Operations.

Since NASA does intend that this Rule apply to current and future NASA mission agreements, including vehicles still to be developed under the Constellation program, the definition of Protected Space Operations will be amended to include a reference to transfer vehicles, since operational transfer vehicles would be neither launch vehicles nor payloads. Thus, the Final Rule makes minor changes to the definition of "Protected Space Operations" in both subsections 1266.102(b)(6) and 1266.104(b)(6) for accuracy and consistency.

For subsection 1266.102(b)(6), the definition of "Protected Space Operations" will be changed from "* * * all launch vehicle activities, ISS activities, and payload activities on Earth, in outer space, or in transit between Earth and outer space in implementation of the IGA * * *" to "all launch or transfer vehicle activities, ISS activities, and payload activities on Earth, in outer space, or in transit between Earth and outer space in implementation of the IGA * * *" with the addition of the words "or transfer" between the words "launch" and "vehicle." As the term "transfer vehicle" has been used but not defined in section 1266.102, NASA will create a

new subsection 1266.102(b)(7) adding the above definition of "transfer vehicle" to the ISS section of this Rule.

For subsection 1266.104(b)(6), the definition of "Protected Space Operations" will be changed from: "* * * all ELV or RLV activities and payload activities on Earth, in outer space, or in transit between Earth and outer space in implementation of an agreement for launch services * * *" to "* * * all launch or transfer vehicle activities and payload activities on Earth, in outer space, or in transit between Earth and outer space in implementation of an agreement for launch services * * *."

J. Capitalizing the Word "Agreement" in Subsection 1266.104(b)(6)(ii)

NASA received the comment that the word "Agreement" in subsection 1266.104(b)(6)(ii) should not be capitalized. NASA agrees with the comment and will remove the initial capital letter in the following sentence: "The term 'Protected Space Operations' excludes activities on Earth that are conducted on return from space to develop further a payload's product or process for use other than for activities within the scope of an Agreement for launch services." The term "Agreement" in that sentence will be changed to lowercase—this provision parallels the definition of the term "Protected Space Operations" of section 1266.102 in regard to ISS products or processes. Removal of the capitalization of the word "Agreement" is also elaborated above, in section E, and the reader is referred to that section for further discussion.

K. Rewording the Sixth Exception to the Cross-waiver

In NASA's experience, the wording of the sixth exception to the cross-waiver has occasionally raised questions on the part of NASA's agreement partners and contractors regarding the purpose and scope of the exception. Subsections 1266.102(c)(4)(vi) and 1266.104(c)(4)(vi) had each provided that, notwithstanding the other provisions of the section, the cross-waiver of liability shall not be applicable to "Claims by or against a Party arising out of or relating to the other Party's failure to meet its contractual obligations set forth in the Agreement."

The Final Rule seeks to clarify the exception. The purpose of the exception is to avoid any interpretation that the cross-waiver would be a defense to a claim arising from a party's failure to perform any obligation set forth in an agreement. The waiver cannot be used by a party as a means of shielding itself

from claims for nonperformance. To clarify this point, NASA will replace the current formulation found in the sixth exception to the cross-waiver with the following: “(vi) Claims by a Party arising out of or relating to another Party’s failure to perform its obligations under the agreement.”

L. Clarifying the Scope of the Cross-waiver in Section 1266.104(c)(1)

In reviewing the NPRM, NASA noticed a minor omission in the wording of the cross-waiver in 1266.104(c)(1) that occurred during the editing/publication process. The words “whatever the legal basis for such claims” were inadvertently omitted from the first part of the sentence. Thus, they will be returned to the text to ensure that the waiver in 1266.104(c)(1) closely parallels the ISS waiver in 1266.102(c)(1). Thus, that part of the sentence in its entirety will read: “The cross-waiver shall apply to any claims for damage, whatever the legal basis for such claims, against: * * *.” This change is a clarification and not a substantive change. The sentence previously stated that “the cross-waiver shall apply to any claims for damage against: * * *.” The modification underscores that the words “any claims for damage” mean any claims, whatever their legal basis.

M. Responding to General Questions Received

Although NASA has no obligation to respond to questions received in response to the NPRM, NASA appreciates the opportunity to answer the questions that were submitted and provide additional explanation regarding certain aspects of the Rule.

1. Will NASA extend this Rule to neighboring launch vehicle or launch site operators?

NASA received the following question: Since NASA is expanding the scope of the cross-waiver in section 104 to address comanifested payloads on the same vehicle, “* * * why not extend the cross-waivers to all NASA contractors/subcontractors involved in ELV or RLV activities on the same launch site?” (USA comments at page 2)

As background, launch operators of different launches often work in close proximity at a single launch site. For example, when launch operator A launches from one launch pad, launch operator B may be within the impact limit lines or a hazard area created by the launch. Nonetheless, for security or mission assurance reasons, launch operator B may wish to keep some of its personnel working at the second launch

pad, even during the launch of launch operator A’s launch vehicle.

The Federal Aviation Administration (FAA) has studied thoroughly the issue of neighboring launch operators. In the above example, the FAA considers that the launch operators are engaged in activities in support of separate launches. Furthermore, the launch operators share no privity of contract for the launch that is about to take place. “For these reasons, the FAA treats them as ‘the public’ with respect to each other.”³ In the regulations which govern licensing and safety requirements for operation of a launch site (14 CFR 420.5), the FAA defines the “public” as “people and property that are not involved in supporting a licensed launch, and includes those people and property that may be located within the boundary of a launch site, * * * and any other launch operator and its personnel.” To ensure consistency, NASA will utilize the same approach, particularly in light of the possibility that an FAA-licensed commercial launch and a NASA program launch could occur at the same site. Thus, absent any contractual relationship between the launch operators for the separate launch activities at issue (and, thus, absent any effective cross-waiver), NASA will consider neighboring launch operators to be members of the public with respect to each other. As a result, any claims by or against them would be outside the scope of the cross-waiver.

2. Are individual employees waiving their claims?

In both subsections 1266.102(c)(1)(iv) and 1266.104(c)(1)(iv), the Rule provides that the cross-waiver shall apply to any claims for damage, whatever the legal basis for such claims, against “* * * the employees of any of the entities identified in paragraphs (c)(1)(i) through (c)(1)(iii) of this section.” NASA received the following questions: “Does this language mean that employees of an entity (or their survivors) cannot sue another Party? Doesn’t this say that, by virtue of employment, the employee waives rights that it otherwise would have?” (USA comments at page 3)

The answer to both questions is “no.” The quoted language in no way affects the rights of any employee (or the employee’s survivors) to present a claim for damage. By its terms, the language states that it is limited to claims against

employees of the entities listed in subsections (c)(1)(i) through (c)(1)(iii) (emphasis added). Claims of or by an individual are not extinguished. In fact, claims of an individual are specifically excluded from the cross-waiver’s scope by virtue of subsection (c)(4)(ii), which provides: This cross-waiver shall not be applicable to “* * * claims made by a natural person, his/her estate, survivors or subrogees * * *.” Thus, no individual employee’s claims are barred under the Rule’s language. This was the case under the original Rule published in 1991, and it remains so.

3. Will this Rule apply to the COTS program?

NASA was asked whether the cross-waiver will apply to NASA’s Commercial Orbital Transportation Services (COTS) program. Announced on January 18, 2006, COTS is a NASA program that provides financial and other assistance to selected commercial launch companies with the goal of fostering a competitive market for resupplying the International Space Station.

First, NASA’s cross-waiver Rule states explicitly that the cross-waiver will not be applicable when 49 U.S.C. Subtitle IX, Chapter 701 is applicable. See subsections 1266.102(c)(6) and 1266.104(c)(6). 49 U.S.C. Subtitle IX, Chapter 701 is popularly referred to as the Commercial Space Launch Act.

Second, on August 18, 2006, NASA’s Exploration Systems Mission Directorate announced that Space Exploration Technologies (SpaceX) and Rocketplane Kistler (RpK) were each winners for Phase I of the COTS program. NASA executed a funded agreement under the Space Act with each of the companies. For launch and re-entry, the agreements recognize that the cross-waiver and insurance requirements of the FAA license and permit process will govern the allocation of risks and liability of the U.S. Government, including NASA. However, both agreements also require the COTS participant to demonstrate rendezvous, proximity operations, docking or berthing, or other activities that are related to, or which could affect, the ISS. Thus, to the extent that the FAA licenses or permits do not apply to activities under the agreements, such as during on-orbit activities, and to the extent that such activities are related to the ISS, the provisions of this Rule regarding NASA’s cross-waiver for ISS activities will apply. At such time as it becomes possible for NASA to acquire from a commercial provider the delivery to and return of crew and cargo from the ISS, NASA would contract for such

³ See Department of Transportation, Federal Aviation Administration, Licensing and Safety Requirements for Launch, Supplemental Notice of Proposed Rulemaking, **Federal Register**: July 30, 2002 (Volume 67, Number 146) at page 49475.

services consistent with applicable procurement regulations, including the cross-waiver requirements of the NASA FAR Supplement (NFS), as discussed above in section A.

4. Does the term “related entity” include related legal entities of a contractor or subcontractor?

NASA received a question from USA regarding the scope of the term “related entity.” In subsections 1266.102(b)(2) and 1266.104(b)(2), given that the term “related entity” includes a contractor or subcontractor at any tier, the submitter asked, “Does the reference to a ‘contractor or subcontractor’ include the related legal entities of the contractor or subcontractor? For example, is a subsidiary able to sue another ‘party’ since such entity is not the ‘entity’ that actually has a contract that would incorporate the cross-waiver?” (USA comments at page 2)

Absent additional facts, under NASA’s original cross-waiver regulation from 1991, there is nothing to indicate that an entity’s parent or subsidiary would fall within the scope of the term “related entity.” The term “related entity” is defined under sections 102 and 104 of the Rule as, “a contractor or subcontractor of a Party at any tier; a user or customer of a Party at any tier; or a contractor or subcontractor of a user or customer of a Party at any tier.”

However, the structure of the space launch industry has undergone significant change since the Rule was first published in 1991. Many contractors in the space business are utilizing alternative forms of business relationships. For example, USA is NASA’s prime contractor for Shuttle and ISS operations. Established in 1996 as a limited liability company (LLC), USA is owned by The Boeing Company and Lockheed Martin Corporation in equal share. USA’s primary business is operating and processing NASA’s Shuttle fleet and the ISS at the Johnson and Kennedy Space Centers. This work is currently defined by the Space Program Operations Contract between NASA and USA. The contract runs from October 1, 2006, through September 30, 2010, which is the currently scheduled termination date for Shuttle operations. The contract includes five, one-year options that could extend the contract through Fiscal Year 2015—options intended for ISS operations and Shuttle close out activities. A second example of the changing nature of the space launch business can be seen in United Launch Alliance (ULA), which is a joint venture between Boeing and Lockheed Martin. ULA operates space launch systems for U.S. Government customers

using the Atlas V, Delta II, and Delta IV launch vehicles.

Considering this evolving launch industry structure, there are foreseeable circumstances in which a party’s parent or subsidiary may be considered a “related entity.” For example, where a parent or subsidiary corporation has loaned equipment to a NASA contractor or subcontractor and the equipment is subsequently damaged as a result of activities under a NASA agreement, there may well be a contractual arrangement between the companies under which the equipment transfer occurred. If no actual contract exists, such a loan of equipment alternatively could be construed as a bailment. In either circumstance, the parent or subsidiary could be considered a lower-tier NASA contractor or subcontractor and, thus, within the current definition of “related entity.” Under such circumstances, assuming that the entities causing and sustaining the damage were thereby engaged in activities within the scope of “Protected Space Operations,” a claim of the parent or subsidiary would be waived.

In essence, USA’s question relates to the circumstances in which a party involved in activities pursuant to a NASA agreement should extend the cross-waiver to parents, subsidiaries, and other related legal entities. The answer to the question is found in the terms of the cross-waiver clause. While section (c)(1) of the clause contains the terms of the waiver, section (c)(2) of the clause obligates the party agreeing to the terms of section (c)(1) to extend those terms to the party’s related entities. Whether a party is obliged to extend the cross-waiver to parents or subsidiaries will always depend on the specific facts of the cooperation. A related entity may be a parent, subsidiary, shareholder, partner, joint venture participant, or the like, if that entity is involved in Protected Space Operations under a NASA agreement. What makes a parent or subsidiary company a related entity is not its legal or corporate affiliation with a party, but rather its actions in becoming involved in Protected Space Operations under a NASA agreement. If a parent or subsidiary is not involved in Protected Space Operations, then there is no obligation for a party to extend (or “flow down”) the cross-waiver to them. In such a circumstance, if a parent or subsidiary were not involved in Protected Space Operations and yet were to suffer damage as a true third party, then its claims for damage would not be barred by the cross-waiver.

List of Subjects in 14 CFR Part 1266

Space transportation and exploration.

III. The Amendment

■ In consideration of the foregoing, the National Aeronautics and Space Administration revises Part 1266 of Title 14, Code of Federal Regulations, to read as follows:

PART 1266—CROSS-WAIVER OF LIABILITY

Sec.

1266.100 Purpose.

1266.101 Scope.

1266.102 Cross-waiver of liability for agreements for activities related to the International Space Station.

1266.103 [Reserved]

1266.104 Cross-waiver of liability for launch agreements for science or space exploration activities unrelated to the International Space Station.

Authority: 42 U.S.C. 2458c and 42 U.S.C. 2473 (c)(1), (c)(5) and (c)(6).

§ 1266.100 Purpose.

The purpose of this Part is to ensure that consistent cross-waivers of liability are included in NASA agreements for activities related to the ISS and for NASA’s science or space exploration activities unrelated to the ISS that involve a launch.

§ 1266.101 Scope.

The provisions at § 1266.102 are intended to implement the cross-waiver requirement in Article 16 of the intergovernmental agreement entitled, “Agreement Among the Government of Canada, Governments of Member States of the European Space Agency, the Government of Japan, the Government of the Russian Federation, and the Government of the United States of America concerning Cooperation on the Civil International Space Station (IGA).” Article 16 establishes a cross-waiver of liability for use by the Partner States and their related entities and requires that this reciprocal waiver of claims be extended to contractually or otherwise-related entities of NASA by requiring those entities to make similar waivers of liability. Thus, NASA is required to include IGA-based cross-waivers in agreements for ISS activities that fall within the scope of “Protected Space Operations,” as defined in § 1266.102. The provisions of § 1266.102 provide the regulatory basis for cross-waiver clauses to be incorporated into NASA agreements for activities that implement the IGA and the memoranda of understanding between the United States and its respective international partners. The provisions of § 1266.104 provide the regulatory basis for cross-waiver clauses to be incorporated into NASA launch agreements for science or

space exploration activities unrelated to the ISS.

§ 1266.102 Cross-waiver of liability for agreements for activities related to the International Space Station.

(a) The objective of this section is to implement NASA's responsibility to flow down the cross-waiver of liability in Article 16 of the IGA to its related entities in the interest of encouraging participation in the exploration, exploitation, and use of outer space through the International Space Station (ISS). The IGA declares the Partner States' intention that the cross-waiver of liability be broadly construed to achieve this objective.

(b) For the purposes of this section:

(1) The term "Party" means a party to a NASA agreement involving activities in connection with the ISS.

(2)(i) The term "related entity" means:

(A) A contractor or subcontractor of a Party or a Partner State at any tier;

(B) A user or customer of a Party or a Partner State at any tier; or

(C) A contractor or subcontractor of a user or customer of a Party or a Partner State at any tier.

(ii) The terms "contractor" and "subcontractor" include suppliers of any kind.

(iii) The term "related entity" may also apply to a State, or an agency or institution of a State, having the same relationship to a Partner State as described in paragraphs (b)(2)(i)(A) through (b)(2)(i)(C) of this section or otherwise engaged in the implementation of Protected Space Operations as defined in paragraph (b)(6) of this section.

(3) The term "damage" means:

(i) Bodily injury to, or other impairment of health of, or death of, any person;

(ii) Damage to, loss of, or loss of use of any property;

(iii) Loss of revenue or profits; or

(iv) Other direct, indirect, or consequential damage.

(4) The term "launch vehicle" means an object, or any part thereof, intended for launch, launched from Earth, or returning to Earth which carries payloads or persons, or both.

(5) The term "payload" means all property to be flown or used on or in a launch vehicle or the ISS.

(6) The term "Protected Space Operations" means all launch or transfer vehicle activities, ISS activities, and payload activities on Earth, in outer space, or in transit between Earth and outer space in implementation of the IGA, MOUs concluded pursuant to the IGA, and implementing arrangements. It includes, but is not limited to:

(i) Research, design, development, test, manufacture, assembly, integration, operation, or use of launch or transfer vehicles, the ISS, payloads, or instruments, as well as related support equipment and facilities and services; and

(ii) All activities related to ground support, test, training, simulation, or guidance and control equipment and related facilities or services. "Protected Space Operations" also includes all activities related to evolution of the ISS, as provided for in Article 14 of the IGA. "Protected Space Operations" excludes activities on Earth which are conducted on return from the ISS to develop further a payload's product or process for use other than for ISS-related activities in implementation of the IGA.

(7) The term "transfer vehicle" means any vehicle that operates in space and transfers payloads or persons or both between two different space objects, between two different locations on the same space object, or between a space object and the surface of a celestial body. A transfer vehicle also includes a vehicle that departs from and returns to the same location on a space object.

(8) The term "Partner State" includes each Contracting Party for which the IGA has entered into force, pursuant to Article 25 of the IGA or pursuant to any successor agreement. A Partner State includes its Cooperating Agency. It also includes any entity specified in the Memorandum of Understanding (MOU) between NASA and the Government of Japan to assist the Government of Japan's Cooperating Agency in the implementation of that MOU.

(c)(1) Cross-waiver of liability: Each Party agrees to a cross-waiver of liability pursuant to which each Party waives all claims against any of the entities or persons listed in paragraphs (c)(1)(i) through (c)(1)(iv) of this section based on damage arising out of Protected Space Operations. This cross-waiver shall apply only if the person, entity, or property causing the damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations. The cross-waiver shall apply to any claims for damage, whatever the legal basis for such claims, against:

(i) Another Party;

(ii) A Partner State other than the United States of America;

(iii) A related entity of any entity identified in paragraph (c)(1)(i) or (c)(1)(ii) of this section; or

(iv) The employees of any of the entities identified in paragraphs (c)(1)(i) through (c)(1)(iii) of this section.

(2) In addition, each Party shall, by contract or otherwise, extend the cross-waiver of liability, as set forth in paragraph (c)(1) of this section, to its related entities by requiring them, by contract or otherwise, to:

(i) Waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this section; and

(ii) Require that their related entities waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this section.

(3) For avoidance of doubt, this cross-waiver of liability includes a cross-waiver of claims arising from the Convention on International Liability for Damage Caused by Space Objects, which entered into force on September 1, 1972, where the person, entity, or property causing the damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations.

(4) Notwithstanding the other provisions of this section, this cross-waiver of liability shall not be applicable to:

(i) Claims between a Party and its own related entity or between its own related entities;

(ii) Claims made by a natural person, his/her estate, survivors or subrogees (except when a subrogee is a Party to the agreement or is otherwise bound by the terms of this cross-waiver) for bodily injury to, or other impairment of health of, or death of, such person;

(iii) Claims for damage caused by willful misconduct;

(iv) Intellectual property claims;

(v) Claims for damage resulting from a failure of a Party to extend the cross-waiver of liability to its related entities, pursuant to paragraph (c)(2) of this section; or

(vi) Claims by a Party arising out of or relating to another Party's failure to perform its obligations under the agreement.

(5) Nothing in this section shall be construed to create the basis for a claim or suit where none would otherwise exist.

(6) This cross-waiver shall not be applicable when 49 U.S.C. Subtitle IX, Chapter. 701 is applicable.

§ 1266.103 [Reserved].

§ 1266.104 Cross-waiver of liability for launch agreements for science or space exploration activities unrelated to the International Space Station.

(a) The purpose of this section is to implement a cross-waiver of liability between the parties to agreements for NASA's science or space exploration

activities that are not related to the International Space Station (ISS) but involve a launch. It is intended that the cross-waiver of liability be broadly construed to achieve this objective.

(b) For purposes of this section:

(1) The term "Party" means a party to a NASA agreement for science or space exploration activities unrelated to the ISS that involve a launch.

(2) (i) The term "related entity" means:

(A) A contractor or subcontractor of a Party at any tier;

(B) A user or customer of a Party at any tier; or

(C) A contractor or subcontractor of a user or customer of a Party at any tier.

(ii) The terms "contractor" and "subcontractor" include suppliers of any kind.

(iii) The term "related entity" may also apply to a State or an agency or institution of a State, having the same relationship to a Party as described in paragraphs (b)(2)(i)(A) through (b)(2)(i)(C) of this section, or otherwise engaged in the implementation of Protected Space Operations as defined in paragraph (b)(6) of this section.

(3) The term "damage" means:

(i) Bodily injury to, or other impairment of health of, or death of, any person;

(ii) Damage to, loss of, or loss of use of any property;

(iii) Loss of revenue or profits; or

(iv) Other direct, indirect, or consequential damage.

(4) The term "launch vehicle" means an object, or any part thereof, intended for launch, launched from Earth, or returning to Earth which carries payloads or persons, or both.

(5) The term "payload" means all property to be flown or used on or in a launch vehicle.

(6) The term "Protected Space Operations" means all launch or transfer vehicle activities and payload activities on Earth, in outer space, or in transit between Earth and outer space in implementation of an agreement for launch services. Protected Space Operations begins at the signature of the agreement and ends when all activities done in implementation of the agreement are completed. It includes, but is not limited to:

(i) Research, design, development, test, manufacture, assembly, integration, operation, or use of launch or transfer vehicles, payloads, or instruments, as well as related support equipment and facilities and services; and

(ii) All activities related to ground support, test, training, simulation, or guidance and control equipment and related facilities or services. The term

"Protected Space Operations" excludes activities on Earth that are conducted on return from space to develop further a payload's product or process for use other than for the activities within the scope of an agreement for launch services.

(7) The term "transfer vehicle" means any vehicle that operates in space and transfers payloads or persons or both between two different space objects, between two different locations on the same space object, or between a space object and the surface of a celestial body. A transfer vehicle also includes a vehicle that departs from and returns to the same location on a space object.

(c)(1) Cross-waiver of liability: Each Party agrees to a cross-waiver of liability pursuant to which each Party waives all claims against any of the entities or persons listed in paragraphs (c)(1)(i) through (c)(1)(iv) of this section based on damage arising out of Protected Space Operations. This cross-waiver shall apply only if the person, entity, or property causing the damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations. The cross-waiver shall apply to any claims for damage, whatever the legal basis for such claims, against:

(i) Another Party;

(ii) A party to another NASA agreement that includes flight on the same launch vehicle;

(iii) A related entity of any entity identified in paragraphs (c)(1)(i) or (c)(1)(ii) of this section; or

(iv) The employees of any of the entities identified in paragraphs (c)(1)(i) through (c)(1)(iii) of this section.

(2) In addition, each Party shall extend the cross-waiver of liability, as set forth in paragraph (c)(1) of this section, to its own related entities by requiring them, by contract or otherwise, to:

(i) Waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this section; and

(ii) Require that their related entities waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this section.

(3) For avoidance of doubt, this cross-waiver of liability includes a cross-waiver of claims arising from the Convention on International Liability for Damage Caused by Space Objects, which entered into force on September 1, 1972, where the person, entity, or property causing the damage is involved in Protected Space Operations and the person, entity, or property damaged is

damaged by virtue of its involvement in Protected Space Operations.

(4) Notwithstanding the other provisions of this section, this cross-waiver of liability shall not be applicable to:

(i) Claims between a Party and its own related entity or between its own related entities;

(ii) Claims made by a natural person, his/her estate, survivors, or subrogees (except when a subrogee is a Party to the agreement or is otherwise bound by the terms of this cross-waiver) for bodily injury to, or other impairment of health of, or death of, such person;

(iii) Claims for damage caused by willful misconduct;

(iv) Intellectual property claims;

(v) Claims for damages resulting from a failure of a Party to extend the cross-waiver of liability to its related entities, pursuant to paragraph (c)(2) of this section; or

(vi) Claims by a Party arising out of or relating to another Party's failure to perform its obligations under the agreement.

(5) Nothing in this section shall be construed to create the basis for a claim or suit where none would otherwise exist.

(6) This cross-waiver shall not be applicable when 49 U.S.C. Subtitle IX, Chapter 701 is applicable.

Michael D. Griffin,

Administrator.

[FR Doc. E8-2868 Filed 2-25-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2007-0646; FRL-8527-1]

Approval and Promulgation of State Implementation Plans; Montana; Revisions to Administrative Rules of Montana, and Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the State of Montana on June 28, 2000 and April 16, 2007. The revisions update Administrative Rules of Montana (ARM) provisions for Particulate Matter, and address Interstate Transport Pollution requirements of Section 110(a)(2)(D)(i) of the Clean Air Act. On June 28, 2000, the Governor of Montana submitted

revisions to ARM rules 17.8.101–Definitions; 17.8.308–Particulate Matter, Airborne; and 17.8.320–Wood Waste Burners. In the April 16, 2007 submission, the Governor of Montana requested EPA’s review and approval of the “Interstate Transport Rule Declaration” adopted into the State SIP on February 12, 2007. The June 28, 2000 submittal included also a declaration certifying the adequacy of the State SIP in regard to the infrastructure-related PM_{2.5} elements of Section 110. EPA is not taking action on this declaration since the State rescinded the request for approval with the April 16, 2007 submittal. This action is being taken under section 110 of the Clean Air Act.

DATES: This rule is effective on April 28, 2008 without further notice, unless EPA receives adverse comment by March 27, 2008. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2007–0646, by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *E-mail: videtich.callie@epa.gov* and *mastrangelo.domenico@epa.gov*.
- *Fax: (303) 312–6064* (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Callie Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Callie Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2007–0646. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise

protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly-available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Domenico Mastrangelo, Air and Radiation Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–6436, *mastrangelo.domenico@epa.gov*.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *Montana* mean the State of Montana, unless the context indicates otherwise.

Table of Contents

- I. General Information
- II. What is the purpose of this action?
- III. What is the State process to submit these materials to EPA?
- IV. EPA’s evaluation of the State of Montana June 28, 2000 submittal
- V. EPA’s evaluation of the State of Montana April 16, 2007 submittal
- VI. Final Action
- VII. Statutory and Executive Order Reviews

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. **Submitting CBI.** Do not submit CBI to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for Preparing Your Comments.** When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

II. What is the purpose of this action?

EPA is approving revisions to the Administrative Rules of Montana (ARM) submitted by the State of Montana on June 28, 2000, and the addition to Montana's SIP of the "Interstate Transport Rule Declaration" submitted on April 16, 2007. The June 28, 2000 submission, adopted on March 17, 2000 and effective on March 31, 2000, included the addition of definitions of PM and PM_{2.5}, in ARM 17.8.101(31) and (32) respectively, as well as related changes to ARM 17.8.308(4), Particulate Matter, Airborne, and 17.8.320(6), Wood Waste Burners. The adoption of a definition for PM accounts for the fact that there is more than one size of particulate matter being regulated, and the addition of the PM_{2.5} definition allows the incorporation of the EPA measurement reference method for PM_{2.5}. ARM 17.8.308(4) and 17.8.320(6) are amended by substituting the term "PM" for the term "PM₁₀" in all applicable rules to specify control requirements and emission limits for new sources and certain wood-waste burners located in particulate matter nonattainment areas. Editorial amendments to ARM 17.8.308(4) make the rule more concise and the term used for particulate matter consistent with the language in other rules.

EPA is also approving the "Interstate Transport Rule Declaration" adopted into the State of Montana SIP on February 12, 2007, effective on the same date, and submitted to EPA on April 16, 2007. The Interstate Transport Rule Declaration addresses the requirements of Section 110(a)(2)(D)(i) of the Clean Air Act (CAA). Section 110(a)(2)(D)(i) of the CAA requires that each state's SIP include adequate provisions prohibiting emissions that adversely affect another state's air quality through interstate transport of air pollutants.

III. What is the State process to submit these materials to EPA?

Section 110(k) of the CAA addresses EPA's actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to EPA. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable

notice and public hearing. This must occur prior to the revision being submitted by a state to EPA.

The Montana Board of Environmental Review (BER) held a public hearing for the addition of definitions for PM and PM_{2.5}, in ARM 17.8.101(31) and (32) respectively, as well as changes to ARM 17.8.308(4) and 17.8.320(6) on January 25, 2000. The definitions and other rule changes were adopted by the Board on March 17, 2000 and became effective on March 31, 2000. The Governor submitted these SIP revisions to EPA on June 28, 2000.

The Montana Board of Environmental Review (BER) held a public hearing for the addition of the Interstate Transport Rule Declaration to Montana's SIP on February 12, 2007. The Declaration was adopted by BER and became State effective also on February 12, 2007. The Governor submitted these SIP revisions to EPA on April 16, 2007.

We have evaluated the Governor's submittals of these SIP revisions and have determined that the State met the requirements for reasonable notice and public hearing under Section 110(a)(2) of the CAA.

IV. EPA's Evaluation of the State of Montana June 28, 2000 Submittal

1. Changes to the Definition of Particulate Matter

Montana is adding new definitions of PM and PM_{2.5}. These changes in definition are approvable and will make particulate matter references more clearly understood by the public. Specifically, the definition under ARM 17.8.101(31) will clarify that all applicable definitions of particulate matter are specified by aerodynamic size class. Furthermore, the definition under ARM 17.8.101(32) specifies that PM_{2.5} is particulate matter with a diameter of less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR part 50, Appendix L, and designated in accordance with 40 CFR part 53, or by an equivalent method designated in accordance with 40 CFR part 53.

The revisions to ARM 17.8.308(4) and ARM 17.8.320(6) replace the term PM₁₀ with PM to maintain consistency with the previous change in definition and include editorial changes that make the language clearer.

2. Certification of the Adequacy of the Section 110 Elements for Implementation of the PM Program

EPA is not taking any action with respect to the declaration made by the State of Montana with respect to Section 110(a)(2)(D)(i) on the adequacy of the

infrastructure-related elements required to implement the particulate matter program. The State rescinded this portion of the June 28, 2000 submittal in its April 16, 2007 submittal.

V. EPA's Evaluation of the State of Montana April 16, 2007 Submittal

EPA has reviewed the State's Interstate Transport Rule Declaration submitted on April 16, 2007 and believes that approval is warranted. The provisions of the CAA Section 110(a)(2)(D)(i) require that the Montana SIP contain adequate provisions prohibiting air pollutant emissions from sources or activities in the state from adversely affecting another state. A state SIP must include provisions that prohibit sources from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in another state; (2) interfere with maintenance of the NAAQS by another state; (3) interfere with another state's measures to prevent significant deterioration of its air quality; and (4) interfere with the efforts of another state to protect visibility. EPA issued guidance on August 15, 2006 relating to SIP submissions that meet the requirements of Section 110(a)(2)(D)(i) for the PM_{2.5} and the 8-hour ozone standards. The Interstate Transport Rule Declaration submitted by the State of Montana is consistent with the guidance.

To support the first two of the four elements noted above, the State of Montana relies on a combination of: (a) EPA positions and modeling analysis results published in **Federal Register** notices as part of the Clean Air Interstate Rule (CAIR) rulemaking process; and, (b) considerations of geographical, meteorological and topographical factors affecting the likelihood of pollution transport from the State to the closest PM_{2.5} and 8-hour ozone nonattainment areas in other states.

In addition, EPA includes data and analysis based on materials published in EPA's CAIR rulemaking notices and on monitoring data gathered by the states and reported to EPA in the Air Quality System (AQS) database.

For PM_{2.5} Montana identifies Merced, California, and Chicago, Illinois, as the nonattainment areas closest to the State urban centers. Merced is more than 700 miles from Missoula and in a direction opposite to that of the prevailing winds. The Cook County nonattainment area, in which Chicago is located, is more than 1,000 miles from Billings, the closest Montana city. Given this distance and the absence of PM_{2.5} nonattainment areas between Billings and Chicago, it is

unlikely that Montana is making a significant contribution to the PM_{2.5} nonattainment status of Cook County. This assessment is consistent with results of the modeling analysis EPA conducted and reported in the rulemaking **Federal Register** notices for the determination of the CAIR states (69 FR 4566 and 70 FR 25162). According to the CAIR Proposed Rule of January 30, 2004, the maximum PM_{2.5} contribution by Montana to downwind counties identified as being in nonattainment for the base years 2010 and 2015 is to Cook County, and is estimated to be 0.03 µg/m³ (Table V-5, 69 FR 4608). This amount is well below the "significant contribution" threshold of 0.20 µg/m³ set by EPA.

An examination of AQS monitoring data suggests that Montana's PM_{2.5} contribution is well below the "significant contribution" threshold. During the years 2004–2006 monitors in the State of Montana showed PM_{2.5} exceedance days on five days: January 19, July 9 and 15, 2005, and August 30 and September 5, 2006. There were no concurrent or delayed measurable effects registered at monitors in the closest downwind, or potentially downwind, states of North Dakota, South Dakota and Wyoming. In fact, during the entire time span considered here, the PM_{2.5} monitors in these three states did not register any exceedance days.

For the 8-hour ozone standard, Montana's Interstate Transport Rule Declaration identifies the Denver Metropolitan Area in Colorado, and the Chico area in California, as the closest nonattainment areas. Fort Collins, the city at the northernmost edge of the Denver Metropolitan Area is more than 400 miles from Billings, and Chico is more than 600 miles from Missoula. Again, distance, in combination with the meteorological and topographic factors of the areas involved, indicate as highly unlikely a significant Montana contribution to the 8-hour ozone nonattainment in the Chico and Denver/Fort Collins areas.

We have also examined the AQS data on 8-hour ozone exceedance days registered during the 2004–2006 years at the monitoring sites in Montana and in neighboring downwind states or potentially downwind states. During these years the ozone monitors did not register any exceedance days in Montana or in the closest downwind states of North Dakota and South Dakota. In the same time span the Wyoming monitors measured 8-hours ozone exceedances on less than 0.5 percent of the days. Wyoming monitors registered three exceedance days on

February 3, 20 and 26, 2005. The absence of 8-hour ozone exceedance days in Montana and its closest downwind states of North Dakota and South Dakota, combined with the rare occurrence of exceedance days in Wyoming, is consistent with conclusions drawn from other data and analysis, presented in the preceding paragraphs: Any ozone or ozone precursor transport from Montana to downwind states is not high enough to significantly contribute to nonattainment of the NAAQS or interfere with maintenance of the NAAQS in neighboring downwind states.

The data and analysis examined above indicates that the Interstate Transport Rule Declaration adopted by Montana in the State SIP satisfactorily addresses the first two elements of the CAA Section 110(a)(2)(D)(i) for the PM_{2.5} and 8-hour ozone standards.

The third element of the Section 110(a)(2)(D)(i) provisions requires states to prohibit emissions that interfere with any other state's measures to prevent significant deterioration (PSD) of air quality. The State of Montana explains that the State's SIP provisions include EPA-approved PSD and Nonattainment New Source Review (NNSR) programs with pre-construction and permitting requirements for new major sources and major modifications to existing sources that satisfy the Section 110(a)(2)(D)(i) requirements. The State also expresses its commitment to continue implementing its PSD and NNSR provisions.

The fourth element of the Section 110(a)(2)(D)(i) provisions concerns the requirement that a state SIP prohibit sources from emitting pollutants that interfere with the efforts of another state to protect visibility. Consistent with the August 15, 2006 EPA guidance, the Montana Interstate Transport Rule Declaration indicates that at this time the State is unable to verify whether there is interference with measures in another state's SIP designed to "protect visibility" for the 8-hour ozone and PM_{2.5}. This fourth element will be addressed in the regional haze implementation plan. Therefore, emitting pollutants will be addressed in Montana for the third and fourth elements of the Section 110(a)(2)(D)(i) provisions in a way that is consistent with the EPA guidance noted above.

VI. Final Action

EPA is approving, through direct final rulemaking, the additions to the Administrative Rules of Montana (ARM) of the definition of PM and PM_{2.5}, ARM 17.8.101(31) and ARM 17.8.101(32), as

well as the modifications to ARM 17.8.308(4) and ARM 17.8.320(6). These changes were adopted on March 17, 2000, became effective on March 31, 2000 and were submitted to EPA on June 28, 2000.

EPA is also approving the Interstate Transport Declaration Rule submitted by Montana on April 16, 2007 and is revising 40 CFR 52.1370 to reflect that the State has adequately addressed the required elements of Section 110(a)(2)(D)(i) of the Clean Air Act.

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. The new definitions of particulate matter and other state regulations will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This rule will be effective April 28, 2008 without further notice unless the Agency receives adverse comments by March 27, 2008. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by

state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *April 28, 2008*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile Organic Compounds.

Dated: January 29, 2008.

Carol Rushin,

Acting Regional Administrator, Region 8.

■ 40 CFR part 52 is amended to read as follows:

PART 52—[AMENDED]

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

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

Subpart BB—Montana

■ 2. Section 52.1370 is amended by adding paragraph (c)(65) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(65) On June 28, 2000, the Governor of Montana submitted to EPA revisions to the Montana State Implementation

Plan. The revisions add definitions for PM and PM_{2.5}, ARM 17.8.101(31) and (32) respectively, and revise ARM 17.8.308(4) and ARM 17.8.320(6) through editorial amendments making the rule more concise and consistent with the language in all applicable rules.

(i) *Incorporation by reference.* Administrative Rules of Montana (ARM) sections: ARM 17.8.101(31) and (32); 17.8.308(4) introductory text, and 17.8.308(4)(b) and (c); and 17.8.320(6). March 31, 2000 is the effective date of these revised rules effective March 31, 2000.

(ii) Additional Material. April 16, 2007 letter by the Governor of Montana rescinding its statement of certification regarding the 1997 NAAQS as submitted in June 28, 2000.

■ 3. Section 52.1393 is added to read as follows:

§ 52.1393 Interstate Transport Declaration for the 1997 8-hour ozone and PM_{2.5} NAAQS.

The State of Montana added the Interstate Transport Rule Declaration to the State SIP, State of Montana Air Quality Control Implementation Plan, Volume I, Chapter 9, to satisfy the requirements of Clean Air Act Section 110(a)(2)(D)(i) for the 8-hour ozone and PM_{2.5} NAAQS promulgated in July 1997. The Montana Interstate Transport Rule Declaration, adopted and effective on the same date of February 12, 2007, was submitted to EPA on April 16, 2007. The April 16, 2007 Governor's letter included as an attachment a set of dated replacement pages for the Montana Interstate Transport Rule Declaration. The new set of pages were sent as replacement for the set of undated pages submitted earlier with the February 12, 2007 Record of Adoption package. In a May 10, 2007 e-mail to Domenico Mastrangelo, EPA, Debra Wolfe, of the Montana Department of Environmental Quality, confirmed February 12, 2007 as the adoption/effective date for the Montana Interstate Transport Rule Declaration.

[FR Doc. E8-3338 Filed 2-25-08; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****44 CFR Part 64**

[Docket No. FEMA-8011]

Suspension of Community Eligibility**AGENCY:** Federal Emergency Management Agency, DHS.**ACTION:** Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: Effective Dates: The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you want to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office.

FOR FURTHER INFORMATION CONTACT: David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP,

42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were

made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended].

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Region IV				
Alabama:				
Powell, Town of, DeKalb County	010398	June 6, 2005, Emerg;- , Reg; February 20, 2008, Susp.	.....do	Do.
Rainsville, City of, DeKalb County	010368	July 16, 1975, Emerg; May 1, 1980, Reg; February 20, 2008, Susp.	.....do	Do.
Sylvania, Town of, DeKalb County	010364	September 4, 2005, Emerg;- , Reg; February 20, 2008, Susp.	.....do	Do.
Taylor, City of, Geneva County	010108	-, Emerg; April 15, 2004, Reg; February 20, 2008, Susp.	.....do	Do.
Valley Head, Town of, DeKalb County	010068	August 7, 1975, Emerg; April 15, 1980, Reg; February 20, 2008, Susp.	.....do	Do.
North Carolina:				
Cleveland County, Unincorporated Areas.	370302	-, Emerg; October 23, 1995, Reg; February 20, 2008, Susp.	.....do	Do.
Shelby, City of, Cleveland County	370064	January 17, 1974, Emerg; April 3, 1978, Reg; February 20, 2008, Susp.	.....do	Do.
Tennessee:				
Lebanon, City of, Wilson County	470208	June 23, 1975, Emerg; January 6, 1983, Reg; February 20, 2008, Susp.	.....do	Do.
Mt. Juliet, City of, Wilson County	470290	July 8, 1976, Emerg; May 17, 1982, Reg; February 20, 2008, Susp.	.....do	Do.
Watertown, City of, Wilson County	470380	December 29, 1980, Emerg; January 1, 1987, Reg; February 20, 2008, Susp.	.....do	Do.
Wilson County, Unincorporated Areas ..	470207	August 27, 1975, Emerg; June 15, 1984, Reg; February 20, 2008, Susp.	.....do	Do.
Region VI				
Arkansas:				
Austin, City of, Lonoke County	050383	January 13, 1976, Emerg; April 15, 1982, Reg; February 20, 2008, Susp.	.....do	Do.
Cabot, City of, Lonoke County	050309	September 26, 1975, Emerg; April 19, 1983, Reg; February 20, 2008, Susp.	.....do	Do.
Lonoke County, Unincorporated Areas	050448	-, Emerg; March 14, 1994, Reg; February 20, 2008, Susp.	.....do	Do.
Ward, City of, Lonoke County	050372	September 8, 1975, Emerg; September 5, 1978, Reg; February 20, 2008, Susp.	.....do	Do.
Region VII				
Iowa:				
Ames, City of, Story County	190254	July 25, 1974, Emerg; January 2, 1981, Reg; February 20, 2008, Susp.	.....do	Do.
Cambridge, City of, Story County	190255	July 29, 1974, Emerg; June 15, 1981, Reg; February 20, 2008, Susp.	.....do	Do.
Gilbert, City of, Story County	190256	April 8, 1975, Emerg; January 1, 1987, Reg; February 20, 2008, Susp.	.....do	Do.
Maxwell, City of, Story County	190257	July 24, 1975, Emerg; February 15, 1984, Reg; February 20, 2008, Susp.	.....do	Do.
Nevada, City of, Story County	190258	November 25, 1974, Emerg; August 3, 1981, Reg; February 20, 2008, Susp.	.....do	Do.
Zearing, City of, Story County	190260	September 28, 1976, Emerg; May 1, 1987, Reg; February 20, 2008, Susp.	.....do	Do.
Kansas:				
Americus, City of, Lyon County	200202	July 8, 1975, Emerg; April 15, 1982, Reg; February 20, 2008, Susp.	.....do	Do.
Emporia, City of, Lyon County	200203	June 10, 1975, Emerg; October 2, 1979, Reg; February 20, 2008, Susp.	.....do	Do.
Missouri:				
Doolittle, City of, Phelps County	290727	February 18, 1976, Emerg; August 24, 1984, Reg; February 20, 2008, Susp.	.....do	Do.
Newburg, City of, Phelps County	295268	April 9, 1971, Emerg; April 28, 1972, Reg; February 20, 2008, Susp.	.....do	Do.
Phelps County, Unincorporated Areas ..	290824	May 1, 1984, Emerg; February 1, 1987, Reg; February 20, 2008, Susp.	.....do	Do.
St. James, City of, Phelps County	290661	February 5, 1976, Emerg; July 3, 1985, Reg; February 20, 2008, Susp.	.....do	Do.
Nebraska:				
Wauneta, Village of, Chase County	310037	March 31, 1975, Emerg; February 4, 1987, Reg; February 20, 2008, Susp.	.....do	Do.

* -do=Ditto.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: February 7, 2008.

David I. Maurstad,

*Assistant Administrator for Mitigation,
Department of Homeland Security, Federal
Emergency Management Agency.*

[FR Doc. E8–3628 Filed 2–25–08; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF TRANSPORTATION

**Federal Motor Carrier Safety
Administration**

49 CFR Part 367

[Docket No. FMCSA–2007–27871]

RIN 2126–AB15

**Fees for Unified Carrier Registration
Plan and Agreement; Correction**

AGENCY: Federal Motor Carrier Safety
Administration (FMCSA), DOT.

ACTION: Correcting amendments.

SUMMARY: This document makes a technical correction to the annual fees and fee bracket structure for the Unified Carrier Registration Agreement that were published in the *Federal Register* of August 24, 2007 (72 FR 48585). The fees and fee bracket structure are required under the Uniform Carrier Registration Act of 2005, enacted as Subtitle C of Title IV of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. This document corrects the year in which the fees and fee bracket structure are effective.

DATES: Effective date: February 26, 2008.

FOR FURTHER INFORMATION CONTACT:

Jason Hartman, Regulatory Development Division, (202) 366–5043, or by e-mail at: *FMCSAregs@dot.gov*. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Legal Basis for the Rulemaking

This technical correction involves the fees for the Unified Carrier Registration Agreement (UCR Agreement) established by 49 U.S.C. 14504a, enacted by section 4305(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (119 Stat. 1144, 1764 (2005)). Section 14504a states that the “Unified Carrier Registration Plan * * * mean[s] the organization * * * responsible for developing, implementing, and administering the unified carrier registration agreement”

(49 U.S.C. 14504a(a)(9)). The UCR Agreement developed by the Unified Carrier Registration Plan (UCR Plan) is the “interstate agreement governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders and leasing companies * * *” (49 U.S.C. 14504a(a)(8)).

The statute provides for a 15-member Board of Directors for the UCR Plan and Agreement (Board) appointed by the Secretary of Transportation. The establishment of the Board was announced in the *Federal Register* on May 12, 2006 (71 FR 27777).

Among its responsibilities, the Board was required to submit to the Secretary of Transportation ¹ a recommendation for the initial annual fees to be assessed motor carriers, motor private carriers, freight forwarders, brokers and leasing companies under the UCR Agreement (49 U.S.C. 14504a(d)(7)(A)). The FMCSA then was directed to set the fees within 90 days after receiving the Board’s recommendation and after notice and opportunity for public comment (49 U.S.C. 14504a(d)(7)(B)). The FMCSA established fees and a fee bracket structure in a final rule published in the *Federal Register* on August 24, 2007 (72 FR 48585).

Background

In the final rule of August 24, 2007 (72 FR 48585), the FMCSA erroneously specified that the fees and fee bracket structure adopted in that rule pertained only to the registration year 2007. Under the statute, however, the fees set by FMCSA apply to each registration year unless and until the Board recommends an adjustment in the annual fees in accordance with 49 U.S.C. 14504a(f)(1)(E). Only after the UCR Board and FMCSA follow the procedures specified in 49 U.S.C. 14504a(d)(7)(B) and FMCSA approves a new set of fees and fee brackets would they become effective.

Need for Correction

This technical correction is required to allow the UCR Plan to continue to collect the established fees in each registration year. The FMCSA is correcting the section heading of 49 CFR 367.20 and the caption of the fee table

¹ The Secretary’s functions under section 14504a have been delegated to the Administrator of the Federal Motor Carrier Safety Administration. 49 CFR 1.73(a)(7), as amended, 71 FR 30833 (May 31, 2006).

in § 367.20 to specify that the section establishes fees under the UCR Plan and the UCR Agreement for each registration year.

Regulatory Analyses and Notices

Administrative Procedure Act

The Administrative Procedure Act provides exceptions to its notice and public comment procedures when an agency finds there is good cause on the basis that those procedures are “impracticable, unnecessary, or contrary to the public interest.” (See 5 U.S.C. 553(b)). As stated above, the amendment made by this final rule merely corrects an inadvertent error. The FMCSA therefore finds good cause that notice and public comment are unnecessary. Further, the Agency finds good cause under 5 U.S.C. 553(d)(3) to make the amendment effective upon publication.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or within the meaning of Department of Transportation regulatory policies and procedures. The Office of Management and Budget did not review this document. We expect the final rule will have minimal costs; therefore, a full regulatory evaluation is unnecessary.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), FMCSA has evaluated the effects of this rule on small entities. Because the rule only makes editorial corrections and places no new requirements on the regulated industry, FMCSA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rulemaking will not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, *et seq.*), that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$128.1 million or more in any 1 year.

Executive Order 12988 (Civil Justice Reform)

This action will meet applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation,

eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

The FMCSA analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. We determined that this rulemaking will not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

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

Executive Order 13132 (Federalism)

The FMCSA analyzed this rule in accordance with the principles and criteria contained in Executive Order 13132. The FMCSA has determined that this rulemaking will not have a substantial direct effect on States, nor will it limit the policy-making discretion of the States. Nothing in this document will preempt any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that FMCSA 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 final rule.

National Environmental Policy Act

The FMCSA analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) and determined under our environmental procedures Order 5610.1, issued March 1, 2004 (69 FR 9680), that this action is categorically excluded (CE) under Appendix 2, paragraph 6.h of the Order from environmental documentation. In addition, the Agency believes that this action includes no extraordinary circumstances that will have any effect

on the quality of the environment. Thus, the action does not require an environmental assessment or an environmental impact statement.

The FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401, *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it will have no effect on the environment.

Executive Order 13211 (Energy Effects)

The FMCSA analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We determined that it is not a "significant energy action" under that Executive Order because it will not be likely to have a significant adverse effect on the supply, distribution, or use.

List of Subjects in 49 CFR Part 367

Commercial motor vehicle, Financial responsibility, Motor carriers, Motor vehicle safety, Registration, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, FMCSA amends title 49, Code of Federal Regulations, part 367, as follows:

PART 367—STANDARDS FOR REGISTRATION WITH STATES

■ 1. The authority citation for part 367 continues to read as follows:

Authority: 49 U.S.C. 13301, 14504, 14504a; and 49 CFR 1.73.

■ 2. Correct the section heading and the title of the table in § 367.20 to read as follows:

§ 367.20 Fees under the Unified Carrier Registration Plan and Agreement for Each Registration Year.

Fees Under the Unified Carrier Registration Plan and Agreement for Each Registration Year

* * * * *

Issued on: February 20, 2008.

John H. Hill,

Administrator.

[FR Doc. E8-3603 Filed 2-25-08; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281-0369-02]

RIN 0648-XF68

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial fishery for king mackerel in the Florida east coast subzone. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective 12:01 a.m., local time, February 21, 2008, through 12:01 a.m., local time, March 31, 2008.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone: 727-824-5305, fax: 727-824-5308, e-mail: Susan.Gerhart@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, and, in the Gulf of Mexico only, dolphin and bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, on April 30, 2001 (66 FR 17368, March 30, 2001) NMFS implemented a commercial quota of 2.25 million lb (1.02 million kg) for the eastern zone (Florida) of the Gulf migratory group of king mackerel. That quota is further divided into separate quotas for the Florida east coast subzone and the northern and southern Florida west coast subzones. The quota implemented for the Florida east coast subzone is 1,040,625 lb (472,020 kg) (50 CFR 622.42(c)(1)(i)(A)(1)).

Under 50 CFR 622.43(a)(3), NMFS is required to close any segment of the

king mackerel commercial fishery when its quota has been reached, by filing a notification at the Office of the Federal Register. NMFS has determined that the commercial quota of 1,040,625 lb (472,000 kg) for Gulf group king mackerel in the Florida east coast subzone will be reached on February 20, 2008. Accordingly, the commercial fishery for king mackerel in the Florida east coast subzone is closed at 12:01 a.m., local time, February 21, 2008, through 12:01 a.m., local time, March 31, 2008.

From November 1 through March 31 the Florida east coast subzone of the Gulf group king mackerel is that part of the eastern zone north of 25°20.4' N. lat. (a line directly east from the Miami-Dade/Monroe County, FL, boundary) to 29°25' N. lat. (a line directly east from the Flagler/Volusia County, FL, boundary). Beginning April 1, the boundary between Atlantic and Gulf groups of king mackerel shifts south and west to the Monroe/Collier County boundary on the west coast of Florida. From April 1 through October 31, king mackerel harvested along the east coast of Florida, including all of Monroe County, are considered to be Atlantic group king mackerel.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the closure.

NMFS also finds good cause that the implementation of this action cannot be delayed for 30 days. There is a need to implement this measure in a timely fashion to prevent an overrun of the commercial fishery for king mackerel in the Florida east coast subzone, given the capacity of the fishing fleet to harvest the quota quickly. Any delay in implementing this action would be contrary to the Magnuson-Stevens Act and the FMP. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: February 20, 2008.

Emily H. Menashes,

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

[FR Doc. 08-835 Filed 2-20-08; 3:59 pm]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213032-7032-01]

RIN 0648-XF82

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is reopening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA) for 48 hours. This action is necessary to fully use the A season allowance of the 2008 total allowable catch (TAC) of pollock specified for Statistical Area 630 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 23, 2008, through 1200 hrs, A.l.t., February 25, 2008. Comments must be received at the following address no later than 4:30 p.m., A.l.t., March 7, 2008.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by 0648-XF82, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>;

- Mail: P.O. Box 21668, Juneau, AK 99802;

- Fax: (907) 586-7557; or

- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

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

submit Confidential Business Information or otherwise sensitive or protected information.

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

FOR FURTHER INFORMATION CONTACT:

Jennifer Hogan, 907-586-7228.

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

NMFS closed the directed fishery for pollock in Statistical Area 630 of the GOA under § 679.20(d)(1)(iii) on January 22, 2008 (73 FR 4494, January 25, 2008). The fishery was subsequently reopened on January 25, 2008 and closed on January 27, 2008 (73 FR 5128, January 29, 2008).

NMFS has determined that approximately 2,469 mt of pollock remain in the directed fishing allowance in Statistical Area 630 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the A season allowance of the 2008 TAC of pollock in Statistical Area 630, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 630 of the GOA. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 48 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA for 48 hours, effective 1200 hrs, A.l.t., February 25, 2008.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and 50 CFR 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries

data in a timely fashion and would delay the opening of pollock in Statistical Area 630 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 20, 2008.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for pollock in Statistical Area 630 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until March 7, 2008.

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

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

Dated: February 21, 2008.

Alan D. Risenhoover

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

[FR Doc. 08–851 Filed 2–21–08; 2:26 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106673–8011–02]

RIN 0648–XD69

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2008 and 2009 Harvest Specifications for Groundfish

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

ACTION: Final rule; closures.

SUMMARY: NMFS announces final 2008 and 2009 harvest specifications and prohibited species catch allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits for groundfish during the 2008 and 2009 fishing years and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea

and Aleutian Islands Management Area (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: The final 2008 and 2009 harvest specifications and associated apportionment of reserves are effective at 1200 hrs, Alaska local time (A.l.t.), February 26, 2008, through 2400 hrs, A.l.t., December 31, 2009.

ADDRESSES: Copies of the Final Alaska Groundfish Harvest Specifications Environmental Impact Statement (EIS), Record of Decision (ROD), Supplementary Information Report (SIR) to the EIS, and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available on the Alaska Region Web site at <http://www.fakr.noaa.gov>. Printed copies can be obtained from the Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian. Copies of the 2007 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the Bering Sea and Aleutian Islands management area (BSAI) dated November 2007, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510–2252, phone 907–271–2809, or from its Web site at <http://www.fakr.noaa.gov/npfmc>.

FOR FURTHER INFORMATION CONTACT:

Mary Furuness, 907–586–7228, or e-mail mary.furuness@noaa.gov.

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR part 679 implement the FMP and govern the groundfish fisheries in the BSAI. The North Pacific Fishery Management Council (Council) prepared the FMP, and NMFS approved it under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify the total allowable catch (TAC) for each target species and for the “other species” category, and the sum must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (see 50 CFR (679.20(a)(1)(i)). NMFs also must specify apportionments of TACs, Community Development Quota (CDQ) reserve amounts, prohibited species catch (PSC) allowances, and prohibited species quota (PSQ) reserve amounts. The final harvest specifications listed in Tables 1 through 16 of this action satisfy these

requirements. The sum of TACs for 2008 is 1,838,345 mt and for 2009 is 1,814,204 mt.

Section 679.20(c)(3) further requires NMFS to consider public comment on the proposed annual TACs and apportionments thereof and the proposed PSC allowances, and to publish final harvest specifications in the **Federal Register**. The proposed 2008 and 2009 harvest specifications and PSC allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 6, 2007 (72 FR 68833). Comments were invited and accepted through January 7, 2008. NMFS received two letters with several comments on the proposed harvest specifications. These comments are summarized and responded to in the Response to Comments section of this rule. NMFS consulted with the Council on the final 2008 and 2009 harvest specifications during the December 2007 Council meeting in Anchorage, AK. After considering public comments, as well as biological and economic data that were available at the Council’s December meeting, NMFS is implementing the final 2008 and 2009 harvest specifications as recommended by the Council.

Acceptable Biological Catch (ABC) and TAC Harvest Specifications

The final ABC levels are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. In general, the development of ABCs and overfishing levels (OFLs) involves sophisticated statistical analyses of fish populations and is based on a successive series of six levels, or tiers, of the reliability of the information available to fishery scientists. Tier 1 represents the highest level of data quality available and tier 6 the lowest.

In December 2007, the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Council reviewed current biological information about the condition of the BSAI groundfish stocks. The Council’s Plan Team compiled and presented this information in the 2007 SAFE report for the BSAI groundfish fisheries, dated November 2007. The SAFE report contains a review of the latest scientific analyses and estimates of each species’ biomass and other biological parameters, as well as summaries of the available information on the BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. The SAFE report is available for public review (see

ADDRESSES). From these data and analyses, the Plan Team estimates an OFL and ABC for each species or species category.

In December 2007, the SSC, AP, and Council reviewed the Plan Team's recommendations. Except for BSAI Pacific cod and the "other species" category, the SSC, AP, and Council endorsed the Plan Team's ABC recommendations. For 2008 and 2009, the SSC recommended higher Pacific cod OFLs and ABCs than the OFLs and ABCs recommended by the Plan Team. For BSAI Pacific cod, the SSC recommended using the 2007 ABC and OFL for 2008 and 2009 based on the upward trend of the spawning biomass. For "other species," the SSC recommended using tier 5 management for skate species resulting in higher ABCs than the Plan Team's recommended tier 3 management. For tier 3 the SSC was concerned with the fit of the stock assessment model to survey biomass trends and growth. The SSC provided 2008 and 2009 ABC and OFL amounts by summing up individual species' ABCs in the "other species" category since the current FMP specifies management at the group level. The AP endorsed the ABCs recommended by the SSC, and the Council adopted them.

The Plan Team, SSC, AP, and Council recommended that total removals of Pacific cod from the BSAI not exceed ABC recommendations. In 2007, the Board of Fisheries for the State of Alaska (State) established a guideline harvest level (GHL) west of 170 degrees west longitude in the AI subarea equal to 3 percent of the Pacific cod ABC in the BSAI. Accordingly, the Council recommended that the 2008 and 2009 Pacific cod TACs be adjusted downward from the ABCs by amounts equal to the 2008 and 2009 GHLs.

The final TAC recommendations were based on the ABCs as adjusted for other

biological and socioeconomic considerations, including maintaining the sum of the TACs within the required OY range of 1.4 million to 2.0 million mt. Except for BSAI yellowfin sole, arrowtooth flounder, and "other species," the Council adopted the AP's 2008 and 2009 TAC recommendations. The Council increased the yellowfin sole TAC as a result of a decrease in pollock TAC. The Council increased the arrowtooth flounder TAC to provide for incidental catch in other fisheries, and the Council decreased the "other species" TAC to provide enough TAC for incidental catch, but not for a directed fishery. None of the Council's recommended TACs for 2008 or 2009 exceeds the final 2008 or 2009 ABCs for any species category. The 2008 and 2009 harvest specifications approved by the Secretary of Commerce (Secretary) are unchanged from those recommended by the Council and are consistent with the preferred harvest strategy alternative in the EIS. The 2008 and 2009 TACs are equal to or less than the ABCs recommended by the Council's Plan Teams and SSC. NMFS finds that the recommended OFLs, ABCs, and TACs are consistent with the biological condition of groundfish stocks as described in the 2007 SAFE report that was approved by the Council.

Other Actions Potentially Affecting the 2008 and 2009 Harvest Specifications

The Council is considering a proposal that would allocate the Pacific cod TAC by Bering Sea subarea and AI subarea instead of a combined BSAI TAC. Another proposal would separate some species from the "other rockfish" or "other species" categories so that individual OFLs, ABCs, and TACs may be established for these species. These actions, if submitted to and approved by the Secretary, could change the final 2008 and 2009 harvest specifications.

Changes From the Proposed 2008 and 2009 Harvest Specifications in the BSAI

In October 2007, the Council made its recommendations for the proposed 2008 and 2009 harvest specifications (72 FR 68833, December 6, 2007) based largely on information contained in the 2006 SAFE report for the BSAI groundfish fisheries. The 2007 SAFE report, which was not available when the Council made its recommendations in October 2007, contains the best and most recent scientific information on the condition of the groundfish stocks. In December 2007, the Council considered the 2007 SAFE report in making its recommendations for the final 2008 and 2009 harvest specifications. Based on the 2007 SAFE report, the sum of the 2008 and 2009 recommended final TACs for the BSAI (1,838,345 mt for 2008 and 1,814,204 mt for 2009) is lower than the sum of the proposed 2008 and 2009 TACs (2,000,000 mt for each year). Compared to the proposed 2008 and 2009 harvest specifications, the Council's final TAC recommendations increase fishing opportunities for fishermen and economic benefits to the nation for species for which the Council had sufficient information to raise TAC levels. These species include BSAI Atka mackerel, flathead sole, Pacific cod, yellowfin sole, other flatfish, arrowtooth flounder, Greenland turbot, and northern rockfish. The Council also reduced TAC levels to provide greater protection for several species including Bering Sea subarea pollock, sablefish, Alaska plaice, and other species. The changes in the final rule from the proposed rule are based on the most recent scientific information and implement the harvest strategy described in the proposed rule for the harvest specifications and are compared in the following table:

COMPARISON OF FINAL 2008 AND 2009 WITH PROPOSED 2008 AND 2009 TOTAL ALLOWABLE CATCH IN THE BSAI

[Amounts are in metric tons]

Species	Area ¹	2008 final TAC	2008 proposed TAC	2008 final minus proposed	2009 final TAC	2009 proposed TAC	2009 final minus proposed
Pollock	BS	1,000,000	1,318,000	-318,000	1,000,000	1,318,000	-318,000
	AI	19,000	19,000	0	19,000	19,000	0
	Bogoslof	10	10	0	10	10	0
Pacific cod	BSAI	170,720	127,070	43,650	170,720	127,070	43,650
Sablefish	BS	2,860	2,970	-110	2,610	2,970	-360
	AI	2,440	2,800	-360	2,230	2,800	-570
Atka mackerel	EAI/BS	19,500	17,600	1,900	15,300	17,600	-2,300
	CAI	24,300	22,000	2,300	19,000	22,000	-3,000
	WAI	16,900	15,300	1,600	13,200	15,300	-2,100
Yellowfin sole	BSAI	225,000	150,000	75,000	205,000	150,000	55,000
Rock sole	BSAI	75,000	75,000	0	75,000	75,000	0
Greenland turbot	BS	1,750	1,720	30	1,750	1,720	30

COMPARISON OF FINAL 2008 AND 2009 WITH PROPOSED 2008 AND 2009 TOTAL ALLOWABLE CATCH IN THE BSAI—
Continued

[Amounts are in metric tons]

Species	Area ¹	2008 final TAC	2008 proposed TAC	2008 final minus proposed	2009 final TAC	2009 proposed TAC	2009 final minus proposed
Arrowtooth flounder	AI	790	770	20	790	770	20
Flathead sole	BSAI	75,000	30,000	45,000	75,000	30,000	45,000
Other flatfish	BSAI	50,000	45,000	5,000	50,000	45,000	5,000
Alaska plaice	BSAI	21,600	21,400	200	21,600	21,400	200
Pacific ocean perch	BSAI	50,000	60,000	-10,000	50,000	60,000	-10,000
	BS	4,200	4,080	120	4,100	4,080	20
	EAI	4,900	4,900	0	4,810	4,900	-90
	CAI	4,990	5,000	-10	4,900	5,000	-100
	WAI	7,610	7,620	-10	7,490	7,620	-130
Northern rockfish	BSAI	8,180	8,150	30	8,130	8,150	-20
Shorthead rockfish	BSAI	424	424	0	424	424	0
Rougheye rockfish	BSAI	202	202	0	202	202	0
Other rockfish	BS	414	414	0	414	414	0
	AI	585	585	0	554	585	-31
Squid	BSAI	1,970	1,970	0	1,970	1,970	0
Other species	BSAI	50,000	58,015	-8,015	60,000	58,015	1,985
TOTAL	BSAI	1,838,345	2,000,000	-161,655	1,814,204	2,000,000	-185,796

¹ Bering Sea subarea (BS), Aleutian Islands subarea (AI), Bering Sea and Aleutian Islands Management Area (BSAI), Eastern Aleutian District (EAI), Central Aleutian District (CAI), and Western Aleutian District (WAI).

The final 2008 and 2009 TAC recommendations for the BSAI are within the OY range established for the BSAI and do not exceed ABCs for any single species or complex. Table 1 lists the final 2008 and 2009 OFL, ABC, TAC, initial TAC (ITAC), and CDQ reserve amounts of the BSAI groundfish. The apportionment of TAC amounts among fisheries and seasons is discussed below.

As mentioned in the proposed 2008 and 2009 harvest specifications, NMFS is apportioning the amounts shown in Table 2 from the non-specified reserve to increase the initial ITAC of several target species.

The final harvest specifications for 2008 and 2009 also include specifications consistent with two new FMP amendments. The final rule implementing Amendment 80 to the BSAI FMP was published in the **Federal Register** on September 14, 2007 (72 FR 52668). Amendment 80 allocates total allowable catch of specified groundfish species and halibut and crab PSC limits among several BSAI non-pollock trawl groundfish fisheries fishing sectors, and it facilitates the formation of harvesting cooperatives in the non-American Fisheries Act trawl catcher/processor sector. The Amendment 80 species are Atka mackerel, flathead sole, Pacific

cod, rock sole, yellowfin sole, and Aleutian Islands Pacific ocean perch.

The final rule implementing Amendment 85 to the FMP was published in the **Federal Register** on September 4, 2007 (72 FR 50788). Amendment 85 revises the current allocations of BSAI Pacific cod TAC among various harvest sectors and seasonal apportionments. Also, Amendment 85 divides the halibut PSC allowance annually specified for the hook-and-line Pacific cod fishery between the hook-and-line catcher/processor and catcher vessel sectors.

TABLE 1.—2008 AND 2009 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUND FISH IN THE BSAI¹

[Amounts are in metric tons]

Species	Area	2008					2009				
		OFL	ABC	TAC	ITAC ²	CDQ ³	OFL	ABC	TAC	ITAC ²	CDQ ³
Pollock ³	BS ²	1,440,000	1,000,000	1,000,000	900,000	100,000	1,320,000	1,000,000	1,000,000	900,000	100,000
	AI ²	34,000	28,200	19,000	17,100	1,900	26,100	22,700	19,000	17,100	1,900
	Bogoslof	58,400	7,970	10	10	0	58,400	7,970	10	10	0
Pacific cod ⁴	BSAI	207,000	176,000	170,720	152,453	18,267	207,000	176,000	170,720	152,453	18,267
Sablefish ⁵	BS	3,380	2,860	2,860	2,360	393	2,910	2,610	2,610	1,109	98
	AI	2,890	2,440	2,440	1,853	412	2,510	2,230	2,230	474	42
	BSAI	71,400	60,700	60,700	54,205	6,495	50,600	47,500	47,500	42,418	5,083
Atka mackerel	EAI/BS	n/a	19,500	19,500	17,414	2,087	n/a	15,300	15,300	13,663	1,637
	CAI	n/a	24,300	24,300	21,700	2,600	n/a	19,000	19,000	16,967	2,033
	WAI	n/a	16,900	16,900	15,092	1,808	n/a	13,200	13,200	11,788	1,412
Yellowfin sole	BSAI	265,000	248,000	225,000	200,925	24,075	296,000	276,000	205,000	183,065	21,935
Rock sole	BSAI	304,000	301,000	75,000	66,975	8,025	379,000	375,000	75,000	66,975	8,025
Greenland turbot	BSAI	15,600	2,540	2,540	2,159	n/a	16,000	2,540	2,540	2,159	n/a
	BS	n/a	1,750	1,750	1,488	187	n/a	1,750	1,750	1,488	187
	AI	n/a	790	790	672	0	n/a	790	790	672	0
Arrowtooth flounder	BSAI	297,000	244,000	75,000	63,750	8,025	300,000	246,000	75,000	63,750	8,025
Flathead sole	BSAI	86,000	71,700	50,000	44,650	5,350	83,700	69,700	50,000	44,650	5,350
Other flatfish ⁶	BSAI	28,800	21,600	21,600	18,360	0	28,800	21,600	21,600	18,360	0

TABLE 1.—2008 AND 2009 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUND FISH IN THE BSAI¹—Continued
[Amounts are in metric tons]

Species	Area	2008					2009				
		OFL	ABC	TAC	ITAC ²	CDQ ³	OFL	ABC	TAC	ITAC ²	CDQ ³
Alaska plaice	BSAI	248,000	194,000	50,000	42,500	0	277,000	217,000	50,000	42,500	0
Pacific ocean perch.	BSAI	25,700	21,700	21,700	19,198	n/a	25,400	21,300	21,300	18,845	n/a
	BS	n/a	4,200	4,200	3,570	0	n/a	4,100	4,100	3,485	0
	EAI	n/a	4,900	4,900	4,376	524	n/a	4,810	4,810	4,295	515
	CAI	n/a	4,990	4,990	4,456	534	n/a	4,900	4,900	4,376	524
	WAI	n/a	7,610	7,610	6,796	814	n/a	7,490	7,490	6,689	801
Northern rockfish.	BSAI	9,740	8,180	8,180	6,953	0	9,680	8,130	8,130	6,911	0
Shortraker rockfish.	BSAI	564	424	424	360	0	564	424	424	360	0
Rougheye rockfish.	BSAI	269	202	202	172	0	269	202	202	172	0
Other rockfish ⁷ .	BSAI	1,330	999	999	849	0	1,290	968	968	823	0
	BS	n/a	414	414	352	0	n/a	414	414	352	0
	AI	n/a	585	585	497	0	n/a	554	554	471	0
Squid	BSAI	2,620	1,970	1,970	1,675	0	2,620	1,970	1,970	1,675	0
Other species ⁸ .	BSAI	104,000	78,100	50,000	42,500	0	104,000	78,100	60,000	51,000	0
Total .....	.....	3,205,693	2,472,585	1,838,345	1,639,009	174,989	3,191,843	2,557,944	1,814,204	1,597,810	170,751

¹ These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea (BS) subarea includes the Bogoslof District.

² Except for pollock, the portion of the sablefish TAC allocated to hook-and-line and pot gear, and Amendment 80 species, 15 percent of each TAC is put into a reserve. The ITAC for these species is the remainder of the TAC after the subtraction of these reserves.

³ Under § 679.20(a)(5)(i)(A)(1), the annual Bering Sea subarea pollock TAC after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (3.5 percent), is further allocated by sector for a directed pollock fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual Aleutian Islands subarea pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (1,600 mt) is allocated to the Aleut Corporation for a directed pollock fishery.

⁴ The Pacific cod TAC is reduced by three percent from the ABC to account for the State of Alaska's (State) guideline harvest level in State waters of the Aleutian Islands subarea.

⁵ For the Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31). Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (see § 679.20(b)(1)(ii)(B) and (D)). Aleutian Islands Greenland turbot, "other flatfish," Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, rougheye rockfish, "other rockfish," squid, and "other species" are not allocated to the CDQ program.

⁶ "Other flatfish" includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder, and Alaska plaice.

⁷ "Other rockfish" includes all *Sebastes* and *Sebastes* species except for Pacific ocean perch, northern, shortraker, and rougheye rockfish.

⁸ "Other species" includes sculpins, sharks, skates, and octopus. Forage fish, as defined at § 679.2, are not included in the "other species" category.

Non-specified Reserves, CDQ Reserves, and the Incidental Catch Allowance (ICA) for Pollock, Sablefish, Atka Mackerel, Flathead Sole, Rock Sole, Yellowfin Sole, and Aleutian Islands Pacific Ocean Perch

Section 679.20(b)(1)(i) requires the placement of 15 percent of the TAC for each target species or "other species" category, except for pollock, the hook-and-line and pot gear allocation of sablefish, and the Amendment 80 species, in a non-specified reserve. Section 679.20(b)(1)(ii)(B) requires that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Section 679.20(b)(1)(ii)(D) requires allocation of 7.5 percent of the trawl gear allocations of sablefish and 10.7 percent of the Bering Sea Greenland turbot and arrowtooth flounder TACs to the respective CDQ reserves. Section 679.20(b)(1)(ii)(C) requires allocation of 10.7 percent of the TACs for Atka mackerel, Aleutian Islands Pacific Ocean perch, yellowfin sole, rock sole,

flathead sole, and Pacific cod to the CDQ reserves. Sections 679.20(a)(5)(i)(A), (a)(5)(iii)(B)(2)(i), (b)(1)(i)(A), and 679.31(a) also require the allocation of 10 percent of the BSAI pollock TACs to the pollock CDQ directed fishing allowance (DFA). The entire Bogoslof District pollock TAC is allocated as an ICA (see 679.20(a)(5)(ii) and (b)(1)(ii)(A)(2)). With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ allocations by gear. Section 679.21(e)(3)(i)(A) requires withholding 7.5 percent of the Chinook salmon PSC limit, 10.7 percent of the crab and non-Chinook salmon PSC limits, and 343 metric tons (mt) of halibut PSC as PSQ reserves for the CDQ fisheries. Sections 679.30 and 679.31 set forth regulations governing the management of the CDQ and PSQ reserves, respectively.

Pursuant to 679.20(a)(5)(i)(A)(1), NMFS allocates a pollock ICA of 3.5 percent of the Bering Sea subarea pollock TAC after subtraction of the 10 percent CDQ reserve. This allowance is

based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 1999 through 2007. During this 9-year period, the pollock incidental catch ranged from a low of 2.4 percent in 2006 to a high of 5 percent in 1999, with a 9-year average of 3 percent. Pursuant to 679.20(a)(5)(iii)(B)(2)(i) and (ii), NMFS recommends a pollock ICA of 1,600 mt for the AI subarea after subtraction of the 10 percent CDQ DFA. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2003 through 2007. During this 5-year period, the incidental catch of pollock ranged from a low of 5 percent in 2006 to a high of 10 percent in 2003, with a 5-year average of 6 percent.

Pursuant to 679.20(a)(8) and (10), NMFS allocates ICAs of 4,500 mt of flathead sole, 5,000 mt of rock sole, 2,000 mt of yellowfin sole, 10 mt each of Western and Central Aleutian District

Pacific Ocean perch and Atka mackerel, 100 mt of Eastern Aleutian District Pacific Ocean perch, and 1,400 mt of Eastern Aleutian District and Bering Sea subarea Atka mackerel TAC after subtraction of the 10.7 percent CDQ reserve. These allowances are based on NMFS' examination of the incidental catch in other target fisheries from 2003 through 2007.

The regulations do not designate the remainder of the non-specified reserve

by species or species group. Any amount of the reserve may be apportioned to a target species or to the "other species" category during the year, provided that such apportionments do not result in overfishing (see 679.20(b)(1)(ii)). The Regional Administrator has determined that the ITACs specified for the species listed in Table 2 need to be supplemented from the non-specified reserve because U.S. fishing vessels

have demonstrated the capacity to catch the full TAC allocations. Therefore, in accordance with 679.20(b)(3), NMFS is apportioning the amounts shown in Table 2 from the non-specified reserve to increase the ITAC for northern rockfish, shortraker rockfish, rougheye rockfish, and Bering Sea other rockfish by 7.5 percent of the TAC in 2008 and 2009.

TABLE 2.—2008 AND 2009 APPORTIONMENT OF RESERVES TO ITAC CATEGORIES
[Amounts are in metric tons]

Species—area or subarea	2008 ITAC	2008 re-serve amount	2008 final ITAC	2009 ITAC	2009 re-serve amount	2009 final ITAC
Shortraker rockfish—BSAI	360	32	392	360	32	392
Rougheye rockfish—BSAI	172	15	187	172	15	187
Northern rockfish—BSAI	6,953	614	7,567	6,911	610	7,521
Other rockfish—Bering Sea subarea	352	31	383	352	31	383
Total	7,837	692	8,529	7,795	688	8,483

Allocation of Pollock TAC Under the American Fisheries Act (AFA)

Section 679.20(a)(5)(i)(A) requires that the pollock TAC apportioned to the Bering Sea subarea, after subtraction of the 10 percent for the CDQ program and the 3.5 percent for the ICA, be allocated as a DFA as follows: 50 percent to the inshore sector, 40 percent to the catcher/processor sector, and 10 percent to the mothership sector. In the Bering Sea subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10), and 60 percent of the DFA is allocated to the B season (June 10–November 1). The AI directed pollock fishery allocation to the Aleut Corporation is the amount of pollock remaining in the AI subarea after subtracting 1,900 mt for the CDQ DFA (10 percent) and 1,600 mt for the ICA. In the AI subarea, 40 percent of the ABC is allocated to the A season and the remainder of the directed pollock fishery is allocated to the B season.

Table 3 lists these 2008 and 2009 amounts.

Section 679.20(a)(5)(i)(A)(4) also includes several specific requirements regarding Bering Sea pollock allocations. First, 8.5 percent of the pollock allocated to the catcher/processor sector will be available for harvest by AFA catcher vessels with catcher/processor sector endorsements, unless the Regional Administrator receives a cooperative contract that provides for the distribution of harvest among AFA catcher/processors and AFA catcher vessels in a manner agreed to by all members. Second, AFA catcher/processors not listed in the AFA are limited to harvesting not more than 0.5 percent of the pollock allocated to the catcher/processor sector. Table 3 lists the 2008 and 2009 allocations of pollock TAC. Tables 10 through 15 list the AFA catcher/processor and catcher vessel harvesting sideboard limits. The tables for the pollock allocations to the

Bering Sea subarea inshore pollock cooperatives and open access sector will be posted on the Alaska Region Web site at <http://www.fakr.noaa.gov>.

Table 3 also lists seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest within the SCA, as defined at 679.22(a)(7)(vii), is limited to 28 percent of the annual DFA until April 1. The remaining 12 percent of the 40 percent annual DFA allocated to the A season may be taken outside the SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1. The A season pollock SCA harvest limit will be apportioned to each sector in proportion to each sector's allocated percentage of the DFA. Table 3 lists by sector these 2008 and 2009 amounts.

TABLE 3.—2008 AND 2009 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA)¹

[Amounts are in metric tons]

Area and sector	2008 Allocations		2008 A season ¹		2008 B season ¹		2009 Allocations		2009 A season ¹		2009 B season ¹	
			A season DFA	SCA harvest limit ²	B season DFA		A season DFA	SCA harvest limit ²	A season DFA	SCA harvest limit ²	B season DFA	
Bering Sea subarea	1,000,000	n/a	n/a	n/a	n/a	1,000,000	n/a	n/a	n/a	n/a	n/a	n/a
CDQ DFA	100,000	40,000	40,000	28,000	60,000	100,000	40,000	40,000	28,000	60,000	40,000	28,000
ICA ¹	31,500	n/a	n/a	n/a	n/a	31,500	n/a	n/a	n/a	n/a	n/a	n/a
AFA Inshore	434,250	173,700	173,700	121,590	260,550	434,250	173,700	173,700	121,590	260,550	173,700	121,590
AFA Catcher/Processors ³	347,400	138,960	138,960	97,272	208,440	347,400	138,960	138,960	97,272	208,440	138,960	97,272
Catch by C/Ps	317,871	127,148	127,148	n/a	190,723	317,871	127,148	127,148	n/a	190,723	127,148	n/a
Catch by CVs ³	29,529	11,812	11,812	n/a	17,717	29,529	11,812	11,812	n/a	17,717	11,812	n/a
Unlisted C/P Limit ⁴	1,737	695	695	n/a	1,042	1,737	695	695	n/a	1,042	695	n/a
AFA Motherships	86,850	34,740	34,740	24,318	52,110	86,850	34,740	34,740	24,318	52,110	34,740	24,318
Excessive Harvesting Limit ⁵	151,988	n/a	n/a	n/a	n/a	151,988	n/a	n/a	n/a	n/a	n/a	n/a
Excessive Processing Limit ⁶	260,550	n/a	n/a	n/a	n/a	260,550	n/a	n/a	n/a	n/a	n/a	n/a
Total Bering Sea DFA	868,500	347,400	347,400	243,180	521,099	868,500	347,399	347,399	243,180	521,100	347,399	243,180
Aleutian Islands subarea ¹	19,000	n/a	n/a	n/a	n/a	19,000	n/a	n/a	n/a	n/a	n/a	n/a
CDQ DFA	1,900	760	760	n/a	1,140	1,900	760	760	n/a	1,140	760	n/a
ICA	1,600	800	800	n/a	800	1,600	800	800	n/a	800	800	n/a
Aleut Corporation	15,500	15,500	15,500	n/a	0	15,500	15,500	15,500	n/a	0	15,500	n/a
Bogoslof District ICA ⁷	10	n/a	n/a	n/a	n/a	10	n/a	n/a	n/a	n/a	n/a	n/a

¹ Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock, after subtraction for the CDQ DFA (10 percent) and the ICA (3.5 percent), is allocated as a DFA as follows: inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the Bering Sea subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(ii)(B)(2)(i) and (j), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (1,600 mt), is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the directed pollock fishery.

² In the Bering Sea subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1.

³ Pursuant to § 679.20(a)(5)(i)(A)(4), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

⁴ Pursuant to § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

⁵ Pursuant to § 679.20(a)(5)(i)(A)(6), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

⁶ Pursuant to § 679.20(a)(5)(i)(A)(7), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

⁷ The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Allocation of the Atka Mackerel TACs

Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtraction of the CDQ reserves, jig gear allocation, and ICAs for the BSAI trawl limited access sector and non-trawl gear, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and 679.91.

Pursuant to 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea Atka mackerel ITAC may be allocated to jig gear. The amount of this allocation is determined annually by the Council based on several criteria, including the anticipated harvest capacity of the jig gear fleet. The Council recommended, and NMFS approves, a 0.5 percent allocation of the Atka mackerel ITAC in the Eastern Aleutian District and Bering Sea subarea to the jig gear in 2008 and 2009. Based on the 2008 TAC of 16,900 mt after subtractions of the CDQ reserve and ICA, the jig gear allocation would be 80 mt for 2008. Based on the 2009 TAC of 15,300 mt after subtractions of the CDQ reserve and ICA, the jig gear allocation would be 61 mt for 2009.

Section 679.20(a)(8)(ii)(A) apportions the Atka mackerel ITAC into two equal seasonal allowances. The first seasonal allowance is made available for directed fishing from January 1 (January 20 for trawl gear) to April 15 (A season), and the second seasonal allowance is made available from September 1 to November 1 (B season). The jig gear allocation is not apportioned by season.

Pursuant to 679.20(a)(8)(ii)(C)(1), the Regional Administrator will establish a harvest limit area (HLA) limit of no more than 60 percent of the seasonal TAC for the Western and Central Aleutian Districts.

NMFS will establish HLA limits for the CDQ reserve and each of the three non-CDQ trawl sectors: The BSAI trawl limited access sector; the Amendment 80 limited access fishery; and an aggregate HLA limit applicable to all Amendment 80 cooperatives. NMFS will assign vessels in each of the three non-CDQ sectors that apply to fish for Atka mackerel in the HLA to an HLA fishery based on a random lottery of the vessels that apply (see 679.20(a)(8)(iii)). There is no allocation of Atka mackerel to the BSAI trawl limited access sector in the Western Aleutian District. Therefore, no vessels in the BSAI trawl limited access sector will be assigned to

the Western Aleutian District HLA fishery.

Each trawl sector will have a separate lottery. A maximum of two HLA fisheries will be established in Area 542 for the BSAI trawl limited access sector. A maximum of four HLA fisheries will be established for vessels assigned to Amendment 80 cooperatives: A first and second HLA fishery in Area 542, and a first and second HLA fishery in Area 543. A maximum of four HLA fisheries will be established for vessels assigned to the Amendment 80 limited access fishery: A first and second HLA fishery in Area 542, and a first and second HLA fishery in Area 543. NMFS will initially open fishing in the HLA for the first HLA fishery in all three trawl sectors at the same time. The initial opening of fishing in the HLA will be based on the first directed fishing closure of Atka mackerel in Area 541/BS for any one of the three trawl sectors allocated Atka mackerel TAC.

Table 4 lists these 2008 and 2009 amounts. The 2009 allocations for Atka mackerel between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2008.

TABLE 4.—2008 AND 2009 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC
[Amounts are in metric tons]

Sector ¹	Season ^{2,3}	2008 Allocation by area			2009 Allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District	Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District
TAC	n/a	19,500	24,300	16,900	15,300	19,000	13,200
CDQ reserve	Total	2,087	2,600	1,808	1,637	2,033	1,412
	HLA ⁴	n/a	1,560	1,085	n/a	1,220	847
ICA	Total	1,400	10	10	1,400	10	10
Jig ⁵	Total	80	0	0	61	0	0
BSAI trawl limited access	Total	319	434	0	488	678	0
	A	159	217	0	244	339	0
	HLA ⁴	n/a	130	0	n/a	203	0
	B	159	217	0	244	339	0
	HLA ⁴	n/a	130	0	n/a	203	0
Amendment 80 sectors	Total	15,615	21,256	15,082	12,202	16,957	11,778
	A	7,807	10,628	7,541	6,101	8,479	5,889
	HLA ⁴	4,684	6,377	4,525	3,660	5,087	3,533
	B	7,807	10,628	7,541	6,101	8,479	5,889
	HLA ⁴	4,684	6,377	4,525	3,660	5,087	3,533
Amendment 80 limited access	Total	8,232	12,809	9,298	n/a	n/a	n/a
	A	4,116	6,405	4,649	n/a	n/a	n/a
	HLA ⁴	n/a	3,843	2,789	n/a	n/a	n/a
	B	4,116	6,405	4,649	n/a	n/a	n/a
	HLA ⁴	n/a	3,843	2,789	n/a	n/a	n/a
Amendment 80 cooperatives	Total	7,383	8,447	5,784	n/a	n/a	n/a
	A	3,812	4,224	2,892	n/a	n/a	n/a
	HLA ⁴	n/a	2,534	1,735	n/a	n/a	n/a
	B	3,692	4,224	2,892	n/a	n/a	n/a

TABLE 4.—2008 AND 2009 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC—Continued

[Amounts are in metric tons]

Sector ¹	Season ^{2,3}	2008 Allocation by area			2009 Allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District	Eastern Aleutian District/Bering Sea	Central Aleutian District	Western Aleutian District
	HLA ⁴	n/a	2,534	1,735	n/a	n/a	n/a

¹ Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtraction of the CDQ reserves, jig gear allocation, and ICAs, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

² Regulations at §§ 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery. The A season is January 1 (January 20 for trawl gear) to April 15, and the B season is September 1 to November 1.

³ The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

⁴ Harvest Limit Area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (see § 679.2). In 2008 and 2009, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

⁵ Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtraction of the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

Allocation of the Pacific Cod ITAC

Section 679.20(a)(7)(i) and (ii) allocates the Pacific cod TAC in the BSAI, after subtraction of 10.7 percent for the CDQ reserve, as follows: 1.4 percent to vessels using jig gear, 2.0 percent to hook-and-line and pot catcher vessels less than 60 ft (18.3 m) length overall (LOA), 0.2 percent to hook-and-line catcher vessels greater than or equal to 60 ft (18.3 m) LOA, 48.7 percent to hook-and-line catcher/processors, 8.4 percent to pot catcher vessels greater than or equal to 60 ft (18.3 m) LOA, 1.5 percent to pot catcher/processors, 2.3 percent to American Fisheries Act (AFA) trawl catcher/processors, 13.4 percent to non-AFA trawl catcher/processors, and 22.1 percent to trawl catcher vessels. The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. For 2008 and 2009, the Regional Administrator establishes an ICA of 500 mt based on anticipated incidental catch by these sectors in other fisheries. The allocation of the ITAC for Pacific cod to the Amendment 80 sector is established in Table 33 to part 679 and 679.91. The 2009 allocations for Pacific cod between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2008.

Sections 679.20(a)(7) and 679.23(e)(5) apportion seasonal allowances of the Pacific cod ITAC to disperse the Pacific cod fisheries over the fishing year. In accordance with 679.20(a)(7)(iv)(B) and

(C), any unused portion of a seasonal Pacific cod allowance will become available at the beginning of the next seasonal allowance.

Sections 679.20(a)(7)(i)(B) and 679.23(e)(5) establish the CDQ seasonal allowances based on gear type. For hook-and-line catcher/processors and hook-and-line catcher vessels greater than or equal to 60 ft (18.3 m) LOA harvesting CDQ Pacific cod, the first seasonal allowance of 60 percent of the ITAC is available for directed fishing from January 1 to June 10, and the second seasonal allowance of 40 percent of the ITAC is available from June 10 to December 31. No seasonal harvest constraints are imposed on the CDQ Pacific cod fishery for pot gear or hook-and-line catcher vessels less than 60 feet (18.3 m) LOA. For vessels harvesting CDQ Pacific cod with trawl gear, the first seasonal allowance of 60 percent of the ITAC is available January 20 to April 1. The second seasonal, April 1 to June 10, and the third seasonal allowance, June 10 to November 1, are each allocated 20 percent of the ITAC. The CDQ Pacific cod trawl catcher vessel allocation is further allocated as 70 percent of the first seasonal allowance, 10 percent in the second seasonal allowance, and 20 percent in the third seasonal allowance. The CDQ Pacific cod trawl catcher/processor allocation is 50 percent in the first seasonal allowance, 30 percent in the second seasonal allowance, and 20 percent in the third seasonal allowance. For jig gear, the first and third seasonal allowances are each allocated 40 percent of the ITAC and the second

seasonal allowance is allocated 20 percent of the ITAC.

Sections 679.20(a)(7)(iv)(A) and 679.23(e)(5) apportion the non-CDQ seasonal allowances by gear type as follows. For hook-and-line and pot catcher/processors and hook-and-line and pot catcher vessels greater than or equal to 60 ft (18.3 m) LOA, the first seasonal allowance of 51 percent of the ITAC is available for directed fishing from January 1 to June 10, and the second seasonal allowance of 49 percent of the ITAC is available from June 10 (September 1 for pot gear) to December 31. No seasonal harvest constraints are imposed on the Pacific cod fishery for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. For trawl gear, the first seasonal allowance is January 20 to April 1, the second seasonal allowance is April 1 to June 10, and the third seasonal allowance is June 10 to November 1. The trawl catcher vessel allocation is further allocated as 74 percent in the first seasonal allowance, 11 percent in the second seasonal allowance, and 15 percent in the third seasonal allowance. The trawl catcher/processor allocation is allocated 75 percent in the first seasonal allowance, 25 percent in the second seasonal allowance, and zero percent in the third seasonal allowance. For jig gear, the first seasonal allowance is allocated 60 percent of the ITAC, and the second and third seasonal allowances are each allocated 20 percent of the ITAC. Table 5 lists the 2008 and 2009 allocations and seasonal apportionments of the Pacific cod TAC.

TABLE 5.—2008 AND 2009 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC
[Amounts are in metric tons]

Gear sector	Percent	2008 and 2009 share of gear sector total	2008 and 2009 share of sector total	2008 and 2009 seasonal apportionment ²	
				Dates	Amount
Total TAC	100	170,720	n/a	n/a	n/a
CDQ	10.7	18,267	n/a	see § 679.20(a)(7)(i)(B)	n/a
Total hook-and-line/pot gear	60.8	92,691	n/a	n/a	n/a
Hook-and-line/pot ICA ¹	n/a	n/a	500	n/a	n/a
Hook-and-line/pot subtotal	n/a	92,191	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	73,844	Jan 1–Jun 10	37,660
				Jun 10–Dec 31	36,184
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	303	Jan 1–Jun 10	155
				Jun 10–Dec 31	149
Pot catcher/processor	1.5	n/a	2,274	Jan 1–Jun 10	1,160
				Sept 1–Dec 31	1,114
Pot catcher vessel ≥ 60 ft LOA ...	8.4	n/a	12,737	Jan 1–Jun 10	6,496
				Sept 1–Dec 31	6,241
Catcher vessel < 60 ft LOA using hook-and-line or pot gear	2.0	3,033	3,033	n/a	n/a
Trawl catcher vessel	22.1	33,692	n/a	Jan 20–Apr 1	24,932
				Apr 1–Jun 10	3,706
				Jun 10–Nov 1	5,054
AFA trawl catcher/processor	2.3	3,506	n/a	Jan 20–Apr 1	2,630
				Apr 1–Jun 10	877
				Jun 10–Nov 1	0
Amendment 80	13.4	20,429	n/a	Jan 20–Apr 1	15,322
				Apr 1–Jun 10	5,107
				Jun 10–Nov 1	0
Amendment 80 limited access ² ..	n/a	n/a	3,294	Jan 20–Apr 1	2,471
				Apr 1–Jun 10	824
				Jun 10–Nov 1	0
Amendment 80 cooperatives ²	n/a	n/a	17,135	Jan 20–Apr 1	12,851
				Apr 1–Jun 10	4,284
				Jun 10–Nov 1	0
Jig	1.4	2,134	n/a	Jan 1–Apr 30	1,281
				Apr 30–Aug 31	427
				Aug 31–Dec 31	427

¹ The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2008 and 2009 based on anticipated incidental catch in these fisheries.

² The 2009 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2008.

Sablefish Gear Allocation

Sections 679.20(a)(4)(iii) and (iv) require the allocation of sablefish TACs for the Bering Sea and AI subareas between trawl and hook-and-line or pot gear. Gear allocations of the TACs for the Bering Sea subarea are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear and for the AI subarea are 25 percent for trawl gear and 75 percent for hook-and-line or pot gear.

Section 679.20(b)(1)(iii)(B) requires apportionment of 20 percent of the hook-and-line and pot gear allocation of sablefish to the CDQ reserve. The Council recommended that only trawl sablefish TAC be established biennially. The harvest specifications for the hook-and-line gear and pot gear sablefish Individual Fishing Quota (IFQ) fisheries will be limited to the 2008 fishing year to ensure those fisheries are conducted concurrently with the halibut IFQ

fishery. Concurrent sablefish and halibut IFQ fisheries reduces the potential for discards of halibut and sablefish in those fisheries. The sablefish IFQ fisheries will remain closed at the beginning of each fishing year until the final specifications for the sablefish IFQ fisheries are in effect. Table 6 lists the 2008 and 2009 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 6.—2008 AND 2009 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS
[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2008 share of TAC	2008 ITAC	2008 CDQ reserve	2009 share of TAC	2009 ITAC	2009 CDQ reserve
Bering Sea:							
Trawl ¹	50	1,430	1,216	107	1,305	1,109	98
Hook-and-line/pot gear ²	50	1,430	1,144	286	n/a	n/a	n/a
TOTAL	100	2,860	2,360	393	1,305	1,109	98
Aleutian Islands:							

TABLE 6.—2008 AND 2009 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACs—Continued
[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2008 share of TAC	2008 ITAC	2008 CDQ reserve	2009 share of TAC	2009 ITAC	2009 CDQ reserve
Trawl ¹	25	610	519	46	558	474	42
Hook-and-line/pot gear ²	75	1,830	1,464	366	n/a	n/a	n/a
TOTAL	100	2,440	1,983	412	558	474	42

¹ Except for the sablefish hook-and-line or pot gear allocation, 15 percent of TAC is apportioned to the reserve. The ITAC is the remainder of the TAC after the subtraction of these reserves.

² For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. The Council recommended that specifications for the hook-and-line gear sablefish IFQ fisheries be limited to 1 year.

Allocation of the Aleutian Islands Pacific Ocean Perch, Flathead Sole, Rock Sole, and Yellowfin Sole TACs

Sections 679.20(a)(10)(i) and (ii) require the allocation of the Aleutian Islands Pacific ocean perch, flathead sole, rock sole, and yellowfin sole TACs in the BSAI, after subtraction of 10.7 percent for the CDQ reserve and an ICA

for the BSAI trawl limited access sector and vessels using non-trawl gear, to the Amendment 80 sector. The allocation of the ITAC for Aleutian Islands Pacific ocean perch, flathead sole, rock sole, and yellowfin sole to the Amendment 80 sector is established in Tables 33 and 34 to part 679 and 679.91. The 2009 allocations for Amendment 80 species

between Amendment 80 cooperatives and limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2008. Table 7 lists the 2008 and 2009 allocations and seasonal apportionments of the Aleutian Islands Pacific ocean perch, flathead sole, rock sole, and yellowfin sole TACs.

TABLE 7.—2008 AND 2009 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAs), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACs

[Amounts are in metric tons]

Sector	Pacific ocean perch						Flathead sole	Rock sole	Yellowfin sole	
	Eastern Aleutian District		Central Aleutian District		Western Aleutian District		BSAI	BSAI	BSAI	
	2008	2009	2008	2009	2008	2009	2008 and 2009	2008 and 2009	2008	2009
TAC	4,900	4,810	4,990	4,900	7,610	7,490	50,000	75,000	225,000	205,000
CDQ	524	515	534	524	814	801	5,350	8,025	24,075	21,935
ICA	100	100	10	10	10	10	4,500	5,000	2,000	2,000
BSAI trawl limited access	214	420	222	437	136	134	0	0	44,512	37,368
Amendment 80	4,062	3,776	4,224	3,929	6,650	6,545	40,150	61,975	154,413	143,697
Amendment 80 limited access ¹	2,154	0	2,240	0	3,526	0	4,392	14,972	61,431	0
Amendment 80 cooperatives ¹	1,908	0	1,984	0	3,124	0	35,758	47,003	92,982	0

¹ The 2009 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2008.

Allocation of PSC Limits for Halibut, Salmon, Crab, and Herring

Section 679.21(e) sets forth the BSAI PSC limits. Pursuant to 679.21(e)(1)(iv) and (e)(2), the 2008 and 2009 BSAI halibut mortality limits are 3,675 mt for trawl fisheries and 900 mt for the non-trawl fisheries. Section 679.21(e)(3)(i) allocates 276 mt of the trawl halibut mortality limit and 679.21(e)(4)(i)(A) allocates 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program. Section 679.21(e)(1)(vii) specifies 29,000 fish as the 2008 and 2009 Chinook salmon PSC limit for the Bering Sea subarea pollock fishery. Section 679.21(e)(3)(i)(A)(3)(i) allocates

7.5 percent, or 2,175 Chinook salmon, as the PSQ reserve for the CDQ program and allocates the remaining 26,825 Chinook salmon to the non-CDQ fisheries. Section 679.21(e)(1)(ix) specifies 700 fish as the 2008 and 2009 Chinook salmon PSC limit for the AI subarea pollock fishery. Section 679.21(e)(3)(i)(A)(3)(i) allocates 7.5 percent, or 53 Chinook salmon, as the AI subarea PSQ for the CDQ program and allocates the remaining 647 Chinook salmon to the non-CDQ fisheries. Section 679.21(e)(1)(viii) specifies 42,000 fish as the 2008 and 2009 non-Chinook salmon PSC limit. Section 679.21(e)(3)(i)(A)(3)(i) allocates 10.7 percent, or 4,494 non-Chinook salmon, as the PSQ for the CDQ program

and allocates the remaining 37,506 non-Chinook salmon to the non-CDQ fisheries.

PSC limits for crab and herring are specified annually based on abundance and spawning biomass. The red king crab mature female abundance is estimated from the 2007 survey data at 33.4 million red king crabs, and the effective spawning biomass is estimated at 73 million pounds (33,113 mt). Based on the criteria set out at (679.21(e)(1)(ii)), the 2008 and 2009 PSC limit of red king crab in Zone 1 for trawl gear is 197,000 animals. This limit derives from the mature female abundance of more than 8.4 million king crab and the effective spawning biomass estimate of more than 55 million pounds (24,948 mt).

Section 679.21(e)(3)(ii)(B)(2) establishes criteria under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The bycatch limit cannot exceed 25 percent of the red king crab PSC allowance based on the need to optimize the groundfish harvest relative to red king crab bycatch. In December 2007, the Council recommended and NMFS approves that the red king crab bycatch limit be equal to 25 percent of the red king crab PSC allowance within the RKCSS (Table 8b).

Based on 2007 survey data, Tanner crab (*Chionoecetes bairdi*) abundance is estimated at 787 million animals. Given the criteria set out at 679.21(e)(1)(iii), the 2008 and 2009 *C. bairdi* crab PSC limit for trawl gear is 980,000 animals in Zone 1 and 2,970,000 animals in Zone 2. These limits derive from the *C. bairdi* crab abundance estimate of more than 400 million animals.

Pursuant to 679.21(e)(1)(iv), the PSC limit for snow crab (*C. opilio*) is based on total abundance as indicated by the NMFS annual bottom trawl survey. The *C. opilio* crab PSC limit is set at 0.1133 percent of the Bering Sea abundance index. Based on the 2007 survey estimate of 3.33 billion animals, the calculated limit is 4,350,000 animals.

Pursuant to 679.21(e)(1)(vi), the PSC limit of Pacific herring caught while conducting any trawl operation for BSAI groundfish is 1 percent of the annual eastern Bering Sea herring biomass. The best estimate of 2008 and 2009 herring biomass is 172,644 mt. This amount was derived using 2007 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game. Therefore, the herring PSC limit for 2008 and 2009 is 1,727 mt for all trawl gear as presented in Tables 8a and 8b.

Section 679.21(e)(3) requires, after subtraction of PSQ reserves, that crab

and halibut trawl PSC be apportioned between the BSAI trawl limited access and Amendment 80 sectors as presented in Table 8a. The amount of 2008 PSC assigned to the Amendment 80 sector is specified in Table 35 to part 679. Pursuant to 679.21(e)(1)(iv) and 679.91(d) through (f), crab and halibut trawl PSC assigned to the Amendment 80 sector is then sub-allocated to Amendment 80 cooperatives as PSC cooperative quota (CQ) and to the Amendment 80 limited access fishery as presented in Tables 8d and 8e. PSC CQ assigned to Amendment 80 cooperatives is not allocated to specific fishery categories. The 2009 PSC allocations between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2008. Section 679.21(e)(3)(i)(B) requires the apportionment of each trawl PSC limit not assigned to Amendment 80 cooperatives into PSC bycatch allowances for seven specified fishery categories.

Sections 679.21(e)(4)(i)(B) and (C) authorize the apportionment of the non-trawl halibut PSC limit into PSC bycatch allowances among six fishery categories. Table 8c lists the fishery bycatch allowances for the trawl and non-trawl fisheries.

Section 679.21(e)(4)(ii) authorizes the exemption of specified non-trawl fisheries from the halibut PSC limit. As in past years after consultation with the Council, NMFS exempts pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions because (1) the pot gear fisheries have low halibut bycatch mortality, (2) halibut mortality for the jig gear fleet is assumed to be negligible, and (3) the sablefish and halibut IFQ fisheries have low halibut bycatch mortality because the IFQ program

requires legal-size halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder or a hired master is aboard and is holding unused halibut IFQ (subpart D of 50 CFR part 679). In 2007, total groundfish catch for the pot gear fishery in the BSAI was approximately 19,496 mt, with an associated halibut bycatch mortality of about 5 mt. The 2007 jig gear fishery harvested about 89 mt of groundfish. Most vessels in the jig gear fleet are less than 60 ft (18.3 m) LOA and thus are exempt from observer coverage requirements. As a result, observer data are not available on halibut bycatch in the jig gear fishery. However, a negligible amount of halibut bycatch mortality is assumed because of the selective nature of jig gear and the low mortality rate of halibut caught with jig gear and released.

Section 679.21(e)(5) authorizes NMFS, after consultation with the Council, to establish seasonal apportionments of PSC amounts for the BSAI trawl limited access and Amendment 80 limited access sectors in order to maximize the ability of the fleet to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are (1) seasonal distribution of prohibited species, (2) seasonal distribution of target groundfish species, (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass, (4) expected variations in bycatch rates throughout the year, (5) expected start of fishing effort, and (6) economic effects of seasonal PSC apportionments on industry sectors. The Council recommended and NMFS approves the seasonal PSC apportionments in Tables 8c and 8e to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based on the above criteria.

TABLE 8A.—2008 AND 2009 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS

PSC species	Total non-trawl PSC	Non-trawl PSC remaining after CDQ PSQ ¹	Total trawl PSC	Trawl PSC remaining after CDQ PSQ ¹	CDQ PSQ reserve ¹	Amendment 80 sector		BSAI trawl limited access fishery
						2008	2009	
Halibut mortality (mt)								
BSAI	900	832	3,675	3,400	343	2,525	2,475	875
Herring (mt) BSAI	n/a	n/a	1,726	n/a	n/a	n/a	n/a	n/a
Red king crab (animals)								
Zone 1 ²	n/a	n/a	197,000	175,921	21,079	109,915	104,427	53,797
<i>C. opilio</i> (animals)								
COBLZ ²	n/a	n/a	4,350,000	3,884,550	465,450	2,386,668	2,267,412	1,248,494
<i>C. bairdi</i> crab (animals)								
Zone 1 ²	n/a	n/a	980,000	875,140	104,860	460,674	437,658	411,228

TABLE 8A.—2008 AND 2009 APPORTIONMENT OF PROHIBITED SPECIES CATCH ALLOWANCES TO NON-TRAWL GEAR, THE CDQ PROGRAM, AMENDMENT 80, AND THE BSAI TRAWL LIMITED ACCESS SECTORS—Continued

PSC species	Total non-trawl PSC	Non-trawl PSC remaining after CDQ PSQ ¹	Total trawl PSC	Trawl PSC remaining after CDQ PSQ ¹	CDQ PSQ reserve ¹	Amendment 80 sector		BSAI trawl limited access fishery
						2008	2009	
<i>C. bairdi</i> crab (animals) Zone 2 ²	n/a	n/a	2,970,000	2,652,210	317,790	784,789	745,536	1,241,500

¹ Section 679.21(e)(3)(i) allocates 276 mt of the trawl halibut mortality limit and § 679.21(e)(4)(i)(a) allocates 7.5 percent, or 67 mt, of the non-trawl halibut mortality limit as the PSQ reserve for use by the groundfish CDQ program. The PSQ reserve for crab species is 10.7 percent of each crab PSC limit.

² Refer to 50 CFR § 679.2 for definitions of areas.

TABLE 8B.—2008 AND 2009 HERRING AND RED KING CRAB SAVINGS SUBAREA PROHIBITED SPECIES CATCH ALLOWANCES FOR ALL TRAWL SECTORS

Fishery categories	Herring (mt) BSAI	Red king crab (animals) Zone 1
Yellowfin sole	148	n/a
Rock sole/flathead sole/other flatfish ¹	26	n/a
Turbot/arrowtooth/sablefish ²	12	n/a
Rockfish	9	n/a
Pacific cod	26	n/a
Midwater trawl pollock	1,318	n/a
Pollock/Atka mackerel/other species ³	187	n/a
Red king crab savings subarea Non-pelagic trawl gear ⁴	n/a	49,250
Total trawl PSC	1,726	197,000

¹ “Other flatfish” for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

² Greenland turbot, arrowtooth flounder, and sablefish fishery category.

³ Non-pelagic pollock, Atka mackerel, and “other species” fishery category.

⁴ In October 2007 the Council recommended that the red king crab bycatch limit for non-pelagic trawl fisheries within the RKCSS be limited to 25 percent of the red king crab PSC allowance (see (679.21(e)(3)(ii)(B)(2)).

TABLE 8C.—2008 AND 2009 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL LIMITED ACCESS SECTOR AND NON-TRAWL FISHERIES

BSAI trawl limited access fisheries	Prohibited species and area ¹				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	<i>C. opilio</i> (animals) COBLZ	<i>C. bairdi</i> (animals)	
				Zone 1	Zone 2
Yellowfin sole	162	47,397	1,176,494	346,228	1,185,500
Rock sole/flathead sole/other flatfish ²	0	0	0	0	0
Turbot/arrowtooth/sablefish ³	0	0	0	0	0
Rockfish	3	0	2,000	60,000	1,000
Pacific cod	585	6,000	50,000	60,000	50,000
Pollock/Atka mackerel/other species	125	400	20,000	5,000	5,000
Total BSAI trawl limited access PSC	875	53,797	1,248,494	411,228	1,241,500
Non-trawl fisheries	Catcher processor	Catcher vessel			
Pacific cod—Total	760	15			
January 1–June 10	314	10			
June 10–August 15	0	3			
August 15–December 31	446	2			
Other non-trawl—Total		58			
May 1–December 31		58			
Groundfish pot and jig		exempt			
Sablefish hook-and-line		exempt			
Total non-trawl PSC		833			

¹ Refer to § 679.2 for definitions of areas.

² “Other flatfish” for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

³ Greenland turbot, arrowtooth flounder, and sablefish fishery category.

TABLE 8D.—2008 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI AMENDMENT 80 COOPERATIVES

Year	Prohibited species and area ¹				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	<i>C. opilio</i> (animals) COBLZ	<i>C. bairdi</i> (animals)	
				Zone 1	Zone 2
2008	1,837	78,631	1,632,432	340,520	580,311

¹ Refer to § 679.2 for definitions of areas.

TABLE 8E.—2008 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI AMENDMENT 80 LIMITED ACCESS FISHERIES

Amendment 80 limited access fisheries	Prohibited species and area ¹				
	Halibut mortality (mt) BSAI	Red king crab (animals) Zone 1	<i>C. opilio</i> (animals) COBLZ	<i>C. bairdi</i> (animals)	
				Zone 1	Zone 2
Yellowfin sole	363	6,100	660,000	63,154	155,318
Jan 20–Jul 1	214	5,900	650,000	58,500	125,318
Jul 1–Dec 31	149	200	10,000	4,654	30,000
Rock sole/other flat/flathead sole ²	224	25,000	93,395	56,677	48,266
Jan 20–Apr 1	180	24,632	90,235	50,000	42,160
Apr 1–Jul 1	20	184	1,660	3,500	3,053
July 1–Dec 31	24	184	1,500	3,177	3,053
Turbot/arrowtooth/sablefish ³	n/a	n/a	7,542	n/a	n/a
Rockfish	50	n/a	n/a	n/a	n/a
Pacific cod	1	184	840	323	893
Pollock/Atka mackerel/other species	50	0	0	0	0
Total Amendment 80 trawl limited access PSC	688	31,284	754,235	120,154	204,477

¹ Refer to § 679.2 for definitions of areas.

² “Other flatfish” for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

³ Greenland turbot, arrowtooth flounder, and sablefish fishery category.

Halibut Discard Mortality Rates

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut bycatch rates, discard mortality rates (DMR), and estimates of groundfish catch to project when a fishery’s halibut bycatch mortality allowance or seasonal apportionment is reached. The DMRs are based on the best information available, including

information contained in the annual SAFE report.

NMFS approves the halibut DMRs developed and recommended by the International Pacific Halibut Commission (IPHC) and the Council for the 2008 and 2009 BSAI groundfish fisheries for use in monitoring the 2008 and 2009 halibut bycatch allowances (see Tables 8a–e). The IPHC developed these DMRs for the 2008 and 2009 BSAI non-CDQ fisheries using the 10-year mean DMRs for those fisheries. The

IPHC developed the DMRs for the 2008 and 2009 BSAI CDQ fisheries using the 1998 to 2006 DMRs for those fisheries. The IPHC will analyze observer data annually and recommend changes to the DMR when a fishery DMR shows large variation from the mean. A copy of the document explaining these DMRs is available from the Council (see **ADDRESSES**) and the DMRs are discussed in the final 2007 SAFE report dated November 2007. Table 9 lists the 2008 and 2009 DMRs.

TABLE 9.—2008 AND 2009 PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI

Gear	Fishery	Halibut discard mortality rate (percent)
Non-CDQ hook-and-line	Greenland turbot	13
	Other species	11
	Pacific cod	11
	Rockfish	17
	Arrowtooth flounder	75
Non-CDQ trawl	Atka mackerel	76
	Flathead sole	70
	Greenland turbot	70
	Non-pelagic pollock	74
	Pelagic pollock	88
	Other flatfish	74
	Other species	70
	Pacific cod	70
	Rockfish	76
	Rock sole	80
	Sablefish	75

TABLE 9.—2008 AND 2009 PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI—Continued

Gear	Fishery	Halibut discard mortality rate (percent)
Non-CDQ Pot	Yellowfin sole	80
	Other species	7
	Pacific cod	7
CDQ trawl	Atka mackerel	85
	Flathead sole	87
	Non-pelagic pollock	86
	Pelagic pollock	90
	Rockfish	82
	Rock sole	86
CDQ hook-and-line	Yellowfin sole	86
	Greenland turbot	4
CDQ pot	Pacific cod	10
	Pacific cod	7
	Sablefish	34

Directed Fishing Closures

In accordance with 679.20(d)(1)(i), the Regional Administrator may establish a DFA for a species or species group if the Regional Administrator determines that any allocation or apportionment of a target species or “other species” category has been or will be reached. If the Regional Administrator establishes a DFA, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district (see 697.20(d)(1)(iii)). Similarly, pursuant to 679.21(e), if the Regional Administrator determines that a fishery category’s

bycatch allowance of halibut, red king crab, *C. bairdi* crab, or *C. opilio* crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in that category in the specified area.

The Regional Administrator has determined that the groundfish allocation amounts in Table 10 will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2008 and 2009 fishing years. Consequently, in accordance with 679.20(d)(1)(i), the Regional Administrator establishes the DFA for the species and species groups in Table 10 as zero. Therefore, in accordance

with 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for these sectors and species in the specified areas effective at 1200 hrs, A.l.t., February 26, 2008, through 2400 hrs, A.l.t., December 31, 2009. Also, the bycatch allowances of halibut in Table 10 are zero mt and the bycatch allowances of red king crab, *C. bairdi* crab, and *C. opilio* crab in Table 10 are 0 animals. Therefore, in accordance with 679.21(e)(7), NMFS is prohibiting directed fishing for these sectors and fishery categories in the specified areas effective at 1200 hrs, A.l.t., February 26, 2008, through 2400 hrs, A.l.t., December 31, 2009.

TABLE 10.—2008 AND 2009 DIRECTED FISHING CLOSURES ¹
[Groundfish and halibut amounts are in metric tons. Crab amounts are in number of animals.]

Area	Sector	Species	2008 Incidental catch allowance	2009 Incidental catch allowance
Bogoslof District	All	Pollock	10	10
Aleutian Islands subarea	All	ICA pollock	1,600	1,600
		“Other rockfish”	497	497
		ICA Atka mackerel	1,400	1,400
Eastern Aleutian District/Bering Sea	Non-amendment 80 and BSAI trawl limited access.	ICA Pacific ocean perch	100	100
Central Aleutian District/Bering Sea	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	10	10
		ICA Pacific ocean perch	10	10
Western Aleutian District/Bering Sea	Non-amendment 80 and BSAI trawl limited access.	ICA Atka mackerel	10	10
		ICA Pacific ocean perch	10	10
Bering Sea subarea	All	Pacific ocean perch	3,570	3,485
		“Other rockfish”	383	383
		ICA pollock	31,500	31,500
Bering Sea and Aleutian Islands	All	Northern rockfish	7,567	7,520
		Shorthead rockfish	392	392
		Rougheye rockfish	187	187
		“Other species”	42,500	51,000
		ICA Pacific cod	500	500
		ICA flathead sole	4,500	4,500
		ICA rock sole	5,000	5,000
ICA yellowfin sole	2,000	2,000		

TABLE 10.—2008 AND 2009 DIRECTED FISHING CLOSURES ¹—Continued
 [Groundfish and halibut amounts are in metric tons. Crab amounts are in number of animals.]

Area	Sector	Species	2008 Incidental catch allowance	2009 Incidental catch allowance
	BSAI trawl limited access	Rock sole/flathead sole/other flatfish—halibut mortality, red king crab zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2.	0	0
		Turbot/arrowtooth/sablefish—halibut mortality, red king crab zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2.	0	0
	Amendment 80 limited access	Rockfish—red king crab zone 1	0	0
		Turbot/arrowtooth/sablefish—halibut mortality, red king crab zone 1, <i>C. bairdi</i> Zone 1 and 2.	0	n/a
		Rockfish—red king crab zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2.	0	n/a
		Pollock/Atka mackerel/other species—red king crab zone 1, <i>C. opilio</i> COBLZ, <i>C. bairdi</i> Zone 1 and 2.	0	n/a

¹ Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

Under authority of the final 2008 and 2009 harvest specifications (72 FR 9451, March 2, 2007), NMFS prohibited directed fishing for Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea of the BSAI for vessels participating in the BSAI trawl limited access fishery effective 1200 hrs, A.l.t., January 20, 2008, through 1200 hrs, A.l.t., September 1, 2008 (73 FR 4494, January 25, 2008). NMFS opened the first directed fisheries in the HLA in Area 542 and Area 543 effective 1200 hrs, A.l.t., January 22, 2008. The first HLA fishery in Area 542 remained open through 1200 hrs, A.l.t., February 5, 2008. The first HLA fishery in Area 543 remained open through 1200 hrs, A.l.t., February 5, 2008. The second directed fisheries in the HLA in Area 542 and Area 543 opened effective 1200 hrs, A.l.t., February 7, 2008. The second HLA fishery in Area 542 remained open through 1200 hrs, A.l.t., February 21, 2008. The second HLA fishery in Area 543 remained open through 1200 hrs, A.l.t., February 21, 2008. NMFS prohibited directed fishing for Pacific cod by catcher vessels 60 ft (18.3 m) LOA and longer using pot gear in the BSAI, effective 12 hrs, A.l.t., January 18, 2008, through 1200 hrs, A.l.t., September 1, 2008 (73 FR 3879, January 23, 2008). NMFS prohibited directed fishing for Pacific cod by catcher/processor vessels using pot gear in the BSAI, effective 12 noon, A.l.t., January 20, 2008, through 1200 hrs, A.l.t., September 1, 2008 (73 FR 3879, January 23, 2008). NMFS prohibited directed fishing for Pacific cod for vessels

participating in the Amendment 80 limited access fishery in the BSAI, effective 12 noon, A.l.t., January 20, 2008, through 1200 hrs, A.l.t., September 1, 2008 (73 FR 4760, January 28, 2008). NMFS prohibited directed fishing for Atka mackerel for vessels participating in the Amendment 80 limited access fishery in the Eastern Aleutian District and Bering Sea subarea of the BSAI, effective 12 noon, A.l.t., February 5, 2008, through 1200 hrs, A.l.t., September 1, 2008 (73 FR 7480, February 8, 2008). NMFS prohibited directed fishing for Pacific cod by catcher processors using hook-and-line gear in the BSAI, effective 12 noon, A.l.t., February 8, 2008, through June 10, 2008, (73 FR 8228, February 13, 2008). NMFS announced Atka mackerel fishery dates for the HLA fishery in the Central Aleutian District for the vessel participating in the Amendment 80 cooperative, opens effective 1200 hrs, A.l.t., February 13, 2008, through 1200 hrs, A.l.t., February 27, 2008 (73 FR 9034, February 19, 2008). NMFS prohibited directed fishing for Pacific cod by catcher vessels less than 60 feet (< 18.3 meters (m)) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area of the BSAI, effective 12 noon, A.l.t., February 12, 2008, through 1200 hrs, A.l.t., December 31, 2008 (73 FR 8821, February 15, 2008). NMFS announced the season opening of the sablefish fixed gear fisheries managed under the IFQ Program at 1200 hrs, A.l.t., March 8, 2008, and will close 1200 hrs, A.l.t., November 15, 2008, which will publish

in the **Federal Register** February 21, 2008.

These closures remain effective under authority of these final 2008 and 2009 harvest specifications. These closures supersede the closures announced under authority of the 2007 and 2008 final harvest specifications (72 FR 9451, March 2, 2007) and revision (72 FR 71802, December 19, 2007). While these closures are in effect, the maximum retainable amounts at 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679.

Central Gulf of Alaska Rockfish Pilot Program (Rockfish Program)

On June 6, 2005, the Council adopted the Rockfish Program to meet the requirements of Section 802 of the Consolidated Appropriations Act of 2004 (Public Law 108–199). The basis for the BSAI fishing prohibitions and the catcher vessel BSAI Pacific cod sideboard limits of the Rockfish Program are discussed in detail in the final rule to Amendment 68 to the FMP for groundfish of the Gulf of Alaska (71 FR 67210, November 20, 2006). Pursuant to 679.82(d)(6)(i), the catcher vessel BSAI Pacific cod sideboard limit is 0.0 mt. Therefore, in accordance with 679.82(d)(7)(ii), NMFS is prohibiting directed fishing for BSAI Pacific cod in July for catcher vessels under the Rockfish Program sideboard limitations.

Listed AFA Catcher/Processor Sideboard Limits

Pursuant to 679.64(a), the Regional Administrator is responsible for restricting the ability of listed AFA catcher/processors to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery

cooperatives in the directed pollock fishery. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80 (72 FR 52668, September 14, 2007). Table 11 lists the 2008 and 2009 catcher/processor sideboard limits.

All harvests of groundfish sideboard species made by listed AFA catcher/

processors, whether as targeted catch or incidental catch, will be deducted from the sideboard limits in Table 11. However, groundfish sideboard species that are delivered to listed catcher/processors by catcher vessels will not be deducted from the 2008 and 2009 sideboard limits for the listed AFA catcher/processors.

TABLE 11.—2008 AND 2009 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUND FISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Target species	Area	1995–1997			2008 ITAC available to trawl C/Ps ¹	2008 AFA C/P sideboard limit	2009 ITAC available to trawl C/Ps ¹	2009 AFA C/P sideboard limit
		Retained catch	Total catch	Ratio of retained catch to total catch				
Sablefish trawl	BS	8	497	0.016	1,216	19	1,109	18
	AI	0	145	0.000	519	0	474	0
Atka mackerel	Central AI							
	A season ²	n/a	n/a	0.115	10,850	1,248	8,483	976
	HLA limit ³	n/a	n/a	n/a	6,510	749	5,090	585
	B season ²	n/a	n/a	0.115	10,850	1,248	8,484	976
	HLA limit ³	n/a	n/a	n/a	6,510	749	5,090	585
	Western AI							
	A season ²	n/a	n/a	0.200	7,546	1,509	5,894	1,179
	HLA limit ³	n/a	n/a	n/a	4,528	906	3,536	707
	B season ²	n/a	n/a	0.200	7,546	1,509	5,894	1,179
	HLA limit ³	n/a	n/a	n/a	4,528	906	3,536	707
Yellowfin sole ⁴	BSAI	100,192	435,788	0.230	200,925	n/a	183,065	n/a
Rock sole	BSAI	6,317	169,362	0.037	66,975	2,478	66,975	2,478
Greenland turbot	BS	121	17,305	0.007	1,488	10	1,488	10
	AI	23	4,987	0.005	672	3	672	3
Arrowtooth flounder	BSAI	76	33,987	0.002	63,750	128	63,750	128
Flathead sole	BSAI	1,925	52,755	0.036	44,650	1,607	44,650	1,607
Alaska plaice	BSAI	14	9,438	0.001	42,500	43	42,500	43
Other flatfish	BSAI	3,058	52,298	0.058	18,360	1,065	18,360	1,065
Pacific ocean perch	BS	12	4,879	0.002	3,570	7	3,485	7
	Eastern AI	125	6,179	0.020	4,376	88	4,295	86
	Central AI	3	5,698	0.001	4,456	4	4,376	4
	Western AI	54	13,598	0.004	6,796	27	6,689	27
Northern rockfish	BSAI	91	13,040	0.007	7,567	53	7,521	53
Shortraker rockfish	BSAI	50	2,811	0.018	392	7	392	7
Rougheye rockfish	BSAI	50	2,811	0.018	187	3	187	3
Other rockfish	BS	18	621	0.029	383	11	383	11
	AI	22	806	0.027	497	13	471	13
Squid	BSAI	73	3,328	0.022	1,675	37	1,675	37
Other species	BSAI	553	68,672	0.008	42,500	340	51,000	408

¹ Atka mackerel, flathead sole, rock sole, yellowfin sole, and Aleutian Islands Pacific ocean perch are multiplied by the remainder of the TAC after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

² The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Listed AFA catcher/processors are limited to harvesting no more than zero in the Eastern Aleutian District and Bering Sea subarea, 20 percent of the annual ITAC specified for the Western Aleutian District, and 11.5 percent of the annual ITAC specified for the Central Aleutian District.

³ Harvest Limit Area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (see § 679.2). In 2008 and 2009, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

⁴ Section 679.64(a)(1)(v) exempts AFA catcher/processors from a yellowfin sole sideboard limit because the 2008 and 2009 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector (200,925 mt in 2008 and 180,065 mt in 2009) is greater than 125,000 mt.

Section 679.64(a)(2) and Tables 40 and 41 of part 679 establish a formula for calculating PSC sideboard limits for listed AFA catcher/processors. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30,

2002) and Amendment 80 (72 FR 52668, September 14, 2007).

PSC species listed in Table 12 that are caught by listed AFA catcher/processors participating in any groundfish fishery other than pollock will accrue against the 2008 and 2009 PSC sideboard limits for the listed AFA catcher/processors.

Section 679.21(e)(3)(v) authorizes NMFS to close directed fishing for groundfish other than pollock for listed AFA catcher/processors once a 2008 or 2009 PSC sideboard limit listed in Table 12 is reached.

Crab or halibut PSC caught by listed AFA catcher/processors while fishing

for pollock will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/"other species" fishery categories under regulations at 679.21(e)(3)(iv).

TABLE 12.—2008 AND 2009 BSAI AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS

PSC species and area ²	Ratio of PSC catch to total PSC	2008 and 2009 PSC available to trawl vessels after subtraction of PSQ ¹	2008 and 2009 C/P sideboard limit ¹
Halibut mortality BSAI	n/a	n/a	286
Red king crab zone 1	0.007	175,921	1,231
<i>C. opilio</i> (COBLZ)	0.153	3,884,550	594,336
<i>C. bairdi</i>			
Zone 1	0.140	875,140	122,520
Zone 2	0.050	2,652,210	132,611

¹ Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

² Refer to § 679.2 for definitions of areas.

AFA Catcher Vessel Sideboard Limits

Pursuant to 679.64(a), the Regional Administrator is responsible for restricting the ability of AFA catcher vessels to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery

cooperatives in the directed pollock fishery. Section 679.64(b) establishes a formula for setting AFA catcher vessel groundfish and PSC sideboard limits for the BSAI. The basis for these sideboard limits is described in detail in the final rules implementing the major provisions of the AFA (67 FR 79692, December 30, 2002) and Amendment 80

(72 FR 52668, September 14, 2007). Tables 13 and 14 list the 2008 and 2009 AFA catcher vessel sideboard limits.

All harvests of groundfish sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or incidental catch, will be deducted from the 2008 and 2009 sideboard limits listed in Table 13.

TABLE 13.—2008 AND 2009 AMERICAN FISHERIES ACT CATCHER VESSEL BSAI GROUND FISH SIDEBOARD LIMITS [Amounts are in metric tons]

Species	Fishery by area/gear/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2008 initial TAC ¹	2008 AFA catcher vessel sideboard limits	2009 initial TAC ¹	2009 AFA catcher vessel sideboard limits
Pacific cod	BSAI					
	Jig gear	0.0000	2,134	0	2,134	0
	Hook-and-line CV	n/a	n/a	n/a	n/a	n/a
	Jan 1–Jun 10	0.0006	155	0	155	0
	Jun 10–Dec 31	0.0006	149	0	149	0
	Pot gear CV	n/a	n/a	n/a	n/a	n/a
	Jan 1–Jun 10	0.0006	6,496	4	6,496	4
	Sept 1–Dec 31	0.0006	6,241	4	6,241	4
	CV < 60 feet LOA using hook-and-line or pot gear.	0.0006	3,033	2	3,033	2
	Trawl gear CV					
Jan 20–Apr 1	0.8609	24,932	21,464	24,932	21,464	
Apr 1–Jun 10	0.8609	3,706	3,190	3,706	3,190	
Jun 10–Nov 1	0.8609	5,054	4,351	5,054	4,351	
Sablefish	BS trawl gear	0.0906	1,216	110	1,109	100
	AI trawl gear	0.0645	519	33	474	31
Atka mackerel	Eastern AI/BS					
	Jan 1–Apr 15	0.0032	8,706	28	6,831	22
	Sept 1–Nov 1	0.0032	8,707	28	6,832	22
	Central AI					
	Jan–Apr 15	0.0001	10,850	1	8,483	1
	HLA limit	0.0001	6,510	1	5,090	1
	Sept 1–Nov 1	0.0001	10,850	1	8,484	1
	HLA limit	0.0001	6,510	1	5,090	1
	Western AI					
	Jan–Apr 15	0.0000	7,546	0	5,894	0
HLA limit	n/a	4,528	0	3,536	0	
Sept 1–Nov 1	0.0000	7,546	0	5,894	0	
HLA limit	n/a	4,528	0	3,536	0	
Yellowfin sole ²	BSAI	0.0647	200,925	n/a	183,065	n/a
Rock sole	BSAI	0.0341	66,975	2,284	66,975	2,284
Greenland turbot	BS	0.0645	1,488	96	1,488	96
	AI	0.0205	672	14	672	14

TABLE 13.—2008 AND 2009 AMERICAN FISHERIES ACT CATCHER VESSEL BSAI GROUND FISH SIDEBOARD LIMITS—Continued

[Amounts are in metric tons]

Species	Fishery by area/gear/season	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2008 initial TAC ¹	2008 AFA catcher vessel sideboard limits	2009 initial TAC ¹	2009 AFA catcher vessel sideboard limits
Arrowtooth flounder	BSAI	0.0690	63,750	4,399	63,750	4,399
Alaska plaice	BSAI	0.0441	42,500	1,874	42,500	1,874
Other flatfish	BSAI	0.0441	18,360	810	18,360	810
Pacific ocean perch	BS	0.1000	3,570	357	3,485	349
	Eastern AI	0.0077	4,376	34	4,295	33
	Central AI	0.0025	4,456	11	4,376	11
	Western AI	0.0000	6,796	0	6,689	0
Northern rockfish	BSAI	0.0084	7,567	64	7,521	63
Shortraker rockfish	BSAI	0.0037	392	1	392	1
Rougheye rockfish	BSAI	0.0037	187	1	187	1
Other rockfish	BS	0.0048	383	2	383	2
	AI	0.0095	497	5	471	4
Squid	BSAI	0.3827	1,675	641	1,675	641
Other species	BSAI	0.0541	42,500	2,299	51,000	2,759
Flathead sole	BS trawl gear	0.0505	44,650	2,255	44,650	2,255

¹ Atka mackerel, flathead sole, rock sole, yellowfin sole, and Aleutians Islands Pacific ocean perch are multiplied by the remainder of the TAC of that species after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C).

² Section 679.64(b)(6) exempts AFA catcher vessels from a yellowfin sole sideboard limit because the 2008 and 2009 aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector (200,925 mt in 2008 and 180,065 mt in 2009) is greater than 125,000 mt.

Halibut and crab PSC listed in Table 14 that are caught by AFA catcher vessels participating in any groundfish fishery for groundfish other than pollock will accrue against the 2008 and 2009 PSC sideboard limits for the AFA catcher vessels. Sections 679.21(d)(8)

and (e)(3)(v) authorize NMFS to close directed fishing for groundfish other than pollock for AFA catcher vessels once a 2008 or 2009 PSC sideboard limit listed in Table 14 is reached. The PSC that is caught by AFA catcher vessels while fishing for pollock in the BSAI

will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/“other species” fishery categories under regulations at 679.21(e)(3)(iv).

TABLE 14.—2008 AND 2009 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI¹

[Amounts are in metric tons]

PSC species	Target fishery category ²	AFA catcher vessel PSC sideboard limit ratio	2008 and 2009 PSC limit after subtraction of PSQ reserves	2008 and 2009 AFA catcher vessel PSC sideboard limit
Halibut	Pacific cod trawl	n/a	n/a	887
	Pacific cod hook-and-line or pot	n/a	n/a	2
	Yellowfin sole total	n/a	n/a	101
	Rock sole/flathead sole/other flatfish total ⁵	n/a	n/a	228
	Turbot/Arrowtooth/Sablefish	n/a	n/a	0
	Rockfish (June 1–December 31)	n/a	n/a	2
	Pollock/Atka mackerel/other species	n/a	n/a	5
Red king crab Zone 1 ^{3,4}	n/a	0.299	175,921	52,600
<i>C. opilio</i> COBLZ ³	n/a	0.168	3,884,550	652,604
<i>C. bairdi</i> Zone 1 ³	n/a	0.330	875,140	288,796
<i>C. bairdi</i> Zone 2 ³	n/a	0.186	2,652,210	493,311

¹ Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

² Target fishery categories are defined in regulation at § 679.21(e)(3)(iv).

³ Refer to § 679.2 for definitions of areas.

⁴ In December 2007, the Council recommended that red king crab bycatch for trawl fisheries within the RKCSS be limited to 25 percent of the red king crab PSC allowance (see § 679.21(e)(3)(ii)(B)(2)).

⁵ “Other flatfish” for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

AFA Catcher/Processor and Catcher Vessel Sideboard Directed Fishing Closures

The Regional Administrator has determined that many of the AFA catcher/processor and catcher vessel sideboard limits listed in Tables 15 and 16 are necessary as incidental catch to

support other anticipated groundfish fisheries for the 2008 fishing year. In accordance with 679.20(d)(1)(iv), the Regional Administrator establishes the sideboard limits listed in Tables 15 and 16 as DFAs. The Regional Administrator finds that many of these DFAs will be reached before the end of the year.

Therefore, in accordance with 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by listed AFA catcher/processors for the species in the specified areas set out in Table 15 and directed fishing by non-exempt AFA catcher vessels for the species in the specified areas set out in Table 16.

TABLE 15.—2008 AND 2009 AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES ¹

[Amounts are in metric tons]

Species	Area	Gear types	2008 Sideboard limit	2009 Sideboard limit
Sablefish trawl	BS	trawl	19	18
	AI	trawl	0	0
Rock sole	BSAI	all	2,478	2,478
Greenland turbot	BS	all	10	10
	AI	all	3	3
Arrowtooth flounder	BSAI	all	128	128
Flathead sole	BSAI	all	1,607	1,607
Pacific ocean perch	BS	all	7	7
	Eastern AI	all	88	86
	Central AI	all	4	4
	Western AI	all	27	27
Northern rockfish	BSAI	all	53	53
Shortraker rockfish	BSAI	all	7	7
Rougheye rockfish	BSAI	all	3	3
Other rockfish	BS	all	11	11
	AI	all	13	13
Squid	BSAI	all	37	37
“Other species”	BSAI	all	340	408

¹ Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

TABLE 16.—2008 AND 2009 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES ¹

[Amounts are in metric tons]

Species	Area	Gear types	2008 Sideboard limit	2009 Sideboard limit
Pacific cod	BSAI	hook-and-line	0	0
	BSAI	pot	8	8
	BSAI	jig	0	0
Sablefish	BS	trawl	110	100
	AI	trawl	33	31
Atka mackerel	Eastern AI/BS	all	56	44
	Central AI	all	2	2
	Western AI	all	0	0
Greenland turbot	BS	all	96	96
	AI	all	14	14
Arrowtooth flounder	BSAI	all	4,399	4,399
Flathead sole	BSAI	all	2,255	2,255
Rock sole	BSAI	all	2,284	2,284
Pacific ocean perch	BS	all	357	349
	Eastern AI	all	34	33
	Central AI	all	11	11
	Western AI	all	0	0
Northern rockfish	BSAI	all	64	63
Shortraker rockfish	BSAI	all	1	1
Rougheye rockfish	BSAI	all	1	1
Other rockfish	BS	all	2	2
	AI	all	5	4
Squid	BSAI	all	641	641
“Other species”	BSAI	all	2,299	2,759

¹ Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

Response to Comments

NMFS received two letters of comment (eight comments) in response to the proposed 2008 and 2009 harvest specifications. These comments are summarized and responded to below.

Comment 1: Explain why the catch specifications as reported in the proposed harvest specifications published in the **Federal Register** do not match the actual numbers discussed and recommended by the Groundfish Plan Teams, Scientific and Statistical Committee, or the North Pacific Fishery Management Council in December 2007.

Response: NMFS's primary objective in the harvest specifications process is the conservation and management of fish resources. The harvest specifications process was developed to balance the use of the best available scientific information from the most recent Stock Assessment and Fishery Evaluation (SAFE) reports with the notice and comment procedures required by the Administrative Procedure Act that allow public participation in the development of rules for more informed agency decision making. Chapter 3 of the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement, January 2007, provides a detailed description of the harvest specifications process and is available on the NMFS Web site at <http://www.fakr.noaa.gov/analyses/specs/eis/final.pdf>.

As explained in the proposed harvest specifications, the Council recommended the proposed harvest specifications for 2008 and 2009 in October 2007. NMFS then published the proposed harvest specifications in the **Federal Register** (72 FR 68833, December 6, 2007). The Council used the best information available at the time in recommending that proposed 2008 and 2009 overfishing levels (OFLs), acceptable biological catches (ABCs), and total allowable catches (TACs) be set equal to the 2008 amounts previously published in the **Federal Register** (72 FR 9451, March 2, 2007). The proposed harvest specifications in October 2007 were based largely on information contained in the 2006 SAFE reports for the BSAI groundfish fisheries, dated November 2006, because the 2007 SAFE reports were not completed until November 2007.

In November 2007, the 2007 SAFE reports were forwarded to the Council by the Council's Groundfish Plan Teams. The 2007 SAFE reports are available on the NMFS Web site at <http://www.afsc.noaa.gov/REFM/stocks/assessments.htm>. The 2007 SAFE reports contain the best and most recent

scientific information on the condition of the groundfish stocks, including projected biomass trends, information on assumed distribution of stock biomass, and revised methods used to calculate stock biomass. In December 2007, the Council developed recommendations for the final harvest specifications based on the new information in the 2007 SAFE reports, public testimony, and the Scientific and Statistical Committee's reviews of the SAFE reports and recommendations. NMFS reviewed the Council's final harvest specifications recommendations and public comments on the proposed harvest specifications, and determined that the final harvest specifications were (1) set using the most recent scientific information according to the harvest strategy, (2) are within the optimum yield established for the BSAI, and (3) do not exceed the ABC for any single species or species complex.

Comment 2: The commenter does not support the BSAI pollock ABC of one million mt for 2008 and 2009, as calculated under Tier 1. Harvest levels should be lower because of poor pollock recruitment, uncertainty in the strength of year classes, and uncertainty in the impact of global warming on pollock stocks. The commenter recommends a pollock ABC of 555,000 mt for 2008 and 650,000 mt for 2009, as calculated under Tier 3b.

Response: The SSC has consistently placed this stock in the Tier 1 category where the estimates of stock productivity specific to Bering Sea subarea pollock apply (as opposed to the proxy values used in Tier 3). This gives a maximum permissible risk-averse ABC level of 1.17 million mt for 2008. The upper limit of the harvest control rule has consideration of uncertainty built in and has an added mechanism to further reduce harvest rates as the stock drops below the maximum sustainable yield biomass level. However, due to additional concerns about stock uncertainty and the desire to further reduce exploitation rates, the SSC agreed with the stock assessment authors and the Plan Team and recommended that the 2008 and 2009 BSAI pollock ABC be set to 1 million mt, which is about 15 percent below the maximum permissible ABC. This corresponds to a harvest rate that would be considerably lower than the one used in recent years and similar to past values.

The TACs, which are the amount of fish the fishery may harvest, are set either at or below the ABCs. Even without this approximately 15 percent reduction, the assessment model and the harvest policy to determine ABC for

pollock is precautionary in a number of ways: (1) There is a conservative constraint on the stock-recruit steepness parameter; (2) as uncertainty increases, the ABC decreases because the estimate of the F_{MSY} (which is the fishing mortality rate expected to result in a long-term average catch approximating maximum sustainable yield) is applied in a formally risk-averse manner; and (3) an added proportional drop in the harvest rate is applied as the stock drops below the level of biomass that results from fishing at constant F_{MSY} .

For the near term, the 2006 year-class appears strong based on age-1 abundance in both the echo-integration trawl survey and bottom trawl surveys, suggesting that the recent spawning levels are capable of generating good recruitment. However, because survival rates are variable at these young ages, the impact of this year-class on rebuilding the stock is uncertain. Projections suggest that the population is expected to rebuild to the maximum sustainable yield level by 2010 with the caveat that the predictive uncertainty remains relatively high.

Comment 3: The optimum yield range is far beyond a healthy range and allows overfishing. Cut the "range" in half. All TACs are double the size they should be for ocean health and food to support whales and all marine mammals.

Response: The optimum yield range for BSAI groundfish is 85 percent of the historical estimate of the maximum sustainable yield (1.7 to 2.4 million mt) or 1.4 to 2.0 million mt. The sum of the 2008 TACs is 1.8 million mt, which is significantly below the upper end of the optimum yield range for the BSAI. NMFS finds that the recommended overfishing levels are consistent with the biological condition of groundfish stocks as described in the 2007 SAFE report. The overfishing levels are harvest limits rather than targets and ABCs and TACs are set below the overfishing levels. Currently, no Alaska groundfish species are known to be overfished. See responses to comments 1 and 2.

Additionally, as detailed in the SAFE reports, ecosystem considerations are incorporated into the harvest specifications process, including consideration of the needs of marine mammals.

Comment 4: It is difficult to understand the process in which NMFS addresses the impacts of the Federal groundfish fisheries on the North Pacific ecosystem. No existing National Environmental Policy Act (NEPA) document adequately assesses the effects of the total allowable catch levels under current circumstances. Removing

millions of tons of fish from the ecosystem using various types of gear, including trawl gear, is likely to have significant effects on the environment, and on fish habitat in particular. Given prevailing ecological and ecosystem conditions and the implications of fishery removals, NMFS must prepare an EIS to evaluate the impacts of the 2008 and 2009 harvest specifications.

Response: NMFS analyzed the impacts of the Federal groundfish fisheries on the North Pacific ecosystem in the Alaska Groundfish Harvest Specifications Final Environmental Impact Statement, January 2007. The EIS examined alternative harvest strategies and projected TAC levels for the federally managed groundfish fisheries in the BSAI management area that comply with Federal regulations, the FMPs, and the Magnuson-Stevens Act. The preferred harvest strategy prescribes setting TACs for groundfish species and species complexes through the Council's harvest specifications process.

Each year, NMFS and the Council utilize the best available scientific information to derive annual harvest specifications, which include TACs and prohibited species catch limits for the following two years. The Council's Groundfish Plan Teams and Scientific and Statistical Committee use stock assessments to calculate biomass, overfishing levels, and ABC limits for each species or species group for specified management areas. The annual SAFE reports include an ecosystem considerations chapter which is used by the stock assessment scientists in the development of the assessments and the recommended ABCs. The SAFE reports detail how ecosystem considerations are incorporated into the assessment process.

Overfishing levels and ABCs provide the foundation for the Council and NMFS to develop the TACs. Overfishing levels and ABC amounts reflect fishery science, applied pursuant to the requirements of the FMPs. The TACs recommended by the Council are either at or below the ABCs. The sum of the TACs for each area is constrained by the optimum yield established for that area.

The EIS evaluated the consequences of alternative harvest strategies and projected TAC levels on ecosystem components and the ecosystem as a whole. Chapter 2 of the Groundfish EIS points to the implications of overall declines in pollock and Pacific cod biomass, discusses the resulting decreases in TACs for those species, and identifies potential increases in flatfish TACs. These changes in abundance and TAC levels were evaluated in the EIS.

The EIS assessed the environmental consequences of each alternative on target species, non-specified species, forage species, prohibited species, marine mammals, seabirds, essential fish habitat, ecosystem relationships, the economy, and environmental justice. Ecosystem impacts were evaluated with respect to predator-prey relationships, energy flow and balance, and diversity.

NMFS also prepared a Supplemental Information Report to evaluate the need to prepare a Supplemental EIS for the 2008 and 2009 groundfish harvest specifications. The Supplemental Information Report is available on the NMFS Web site at <http://www.fakr.noaa.gov/analyses/specs/eis/default.htm>. A Supplemental EIS is required if (1) the agency makes substantial changes in the proposed action that are relevant to environmental concerns, or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)).

In this report, NMFS analyzed the information contained in the Council's 2007 SAFE reports and other information available to NMFS and the Council to determine whether a Supplemental EIS should be prepared. As described in the report, NMFS concluded that the 2008 and 2009 harvest specifications are consistent with the preferred alternative harvest strategy analyzed in the EIS because they were set through the harvest specifications process pursuant to the selected harvest strategy, are within the optimum yield established for the BSAI, and do not exceed the ABC for any single species or species complex. The preferred harvest strategy analyzed in the EIS anticipated that new information on changes in species abundance would be used in setting the annual harvest specifications and was designed to adjust to such fluctuations.

As described in the Supplemental Information Report, the information used to set the 2008 and 2009 harvest specifications is not significant relative to the environmental impacts analyzed in the EIS and it raises no new environmental concerns significantly different from those previously analyzed in the EIS. The harvest specifications process and the environmental consequences of the selected harvest strategy are fully described in the EIS. Thus, NMFS concluded that the new information available is not of a scale and scope that require a Supplemental EIS.

Comment 5: NEPA and the Magnuson-Stevens Act require NMFS to undertake a new, credible analysis of habitat and bycatch impacts before raising flatfish quotas. The Essential Fish Habitat EIS and the Alaska Groundfish Harvest Specifications EIS are not sufficient to evaluate the potential impacts, including bottom habitat impacts, of an increase in the flatfish harvests, the use of bottom trawls, and redistribution of fishing effort.

Response: NMFS has performed an appropriate analysis of the potential impacts, including bottom habitat impacts, of an increase in the flatfish harvests, the use of bottom trawls, and redistribution of fishing effort. The Alaska Groundfish Harvest Specifications Final EIS (Groundfish EIS, January 2007) based its conclusions on the Final EIS for Essential Fish Habitat Identification and Conservation in Alaska (EFH EIS, April 2005, available on the NMFS Web site at <http://www.fakr.noaa.gov/habitat/seis/efheis.htm>) analysis and on the extensive habitat protection measures enacted after the EFH EIS was finalized. The EFH EIS represents the best available science and fully discloses the uncertainties in understanding the impacts of fishing on EFH. The EFH EIS concludes that the effects on EFH are minimal, although some may be persistent, because the analysis found no indication that continued fishing activities at the current rate and intensity would alter the capacity of EFH to support healthy populations of managed species over the long term.

Due to the uncertainties identified in the EFH EIS, the Council recommended, and NMFS implemented, precautionary measures to protect nearly 300,000 square nautical miles of habitat identified as EFH and habitat areas of particular concern from the effects of fishing activities in the Aleutian Islands subarea (71 FR 36694, June 28, 2006).

Additionally, the Council recommended and NMFS is in the process of implementing habitat protection measures for the Bering Sea subarea under Amendment 89. Amendment 89, if approved, would close portions of the Bering Sea to non-pelagic trawling, including flatfish fishing, to ensure fishing remained in historically fished areas and prevent substantial redistribution of effort from increased TAC levels. This amendment and proposed rule is scheduled to be published in the spring and implemented by fall 2008. An Environmental Assessment was prepared for this action. It analyzes the impacts of bottom trawl gear on habitat

in the Bering Sea and the impacts from closing these specific areas to bottom trawl gear. The Environmental Assessment is available on the NMFS Web site at http://www.fakr.noaa.gov/npfmc/current_issues/BSHC/BSHC307.pdf.

The Groundfish EIS projects increases in flatfish TACs under the preferred harvest strategy and under Alternative 1. Chapter 2 of the Groundfish EIS points to the implications of overall declines in pollock and Pacific cod biomass, the resulting decreases in TACs for those species, and identifies potential increases in flatfish TACs. Potential changes in flatfish TACs are evaluated in the EIS where changes in flatfish harvests may impact resource components. For example, there are discussions in Chapter 8 on marine mammals, Chapter 10 on habitat, Chapter 11 on ecosystem relationships, and Chapter 12 on economic and social factors. For habitat, the EIS concluded that since flatfish are harvested with bottom gear, the impacts to habitat may increase with an increase in flatfish TACs. However, increased TACs may not lead to proportionate increases in fishing activity or harvests, or benthic habitat impacts. The flatfish fisheries routinely do not harvest the full TAC because of halibut PSC constraints and limited marketability for some flatfish species. It may not be possible to market the increased quantities of many of these species (for example, increased arrowtooth flounder TACs). In other instances, incidental catch constraints for PSC species, like halibut, may limit the industry's ability to catch the increased TACs. The halibut PSC limits and the marketability of some flatfish species, such as arrowtooth flounder, are not likely to change in 2008. Due to these factors, actual flatfish harvest in 2008 is likely to be lower than the predicted TAC amounts.

Additionally, the EFH conservation measures, closures of habitat areas of particular concern, and other area closures and gear restrictions established in the FMPs protect areas of ecological importance to the long-term sustainability of managed species from fishing impacts, regardless of the TAC levels.

Thus, NMFS concluded that the preferred harvest strategy impacts EFH for managed species, but that the available information does not identify effects of fishing that are more than minimal. An increase in flatfish TACs would not change this conclusion because of the existing habitat protection measures and the limits on the actual flatfish harvests that prevent the TAC from being fully harvested.

Additionally, the general location of the fisheries, the fishing seasons, and the gear used in the fisheries are not likely to be changed by the 2008 and 2009 TAC changes.

Comment 6: The current level of Chinook salmon bycatch in the pollock trawl fishery is unacceptable. The interception of Yukon River Chinook by the pollock trawl fishery has resulted in below average returns, escapement goals not being met, and village elders finding it more difficult to locate fish.

Response: NMFS agrees that the increasing amount of salmon bycatch in the BSAI pollock fisheries is a concern because of the potential for negative impacts on salmon stocks. NMFS has implemented management measures to reduce salmon bycatch in the pollock fishery, and NMFS and the Council are analyzing additional bycatch reduction measures. NMFS, the University of Washington, and the State of Alaska are conducting scientific research to determine the origins of the salmon caught in the pollock fishery. NMFS, the Council, and the State of Alaska are working to determine the impacts of the salmon bycatch on western Alaska stocks. Additionally, the substantial reductions in pollock TACs from 2007 to 2008 may result in a reduction in salmon bycatch.

NMFS agrees that salmon bycatch is an important issue and that salmon of western Alaska origin caught in the groundfish fisheries are not available for escapement, subsistence fisheries, and commercial fisheries. However, limited information is available on salmon biomass and the river of origin for salmon bycatch. Research is underway to address these informational deficiencies. As a result, at present, NMFS is unable to determine whether high bycatch amounts in the pollock fishery are due to high salmon abundance in the Bering Sea, or whether these high bycatch amounts affect western Alaska salmon runs. NMFS anticipates that new information on the genetic profile of salmon bycatch will soon be available and summarized in the analysis of the alternative salmon bycatch reduction measures being prepared for Council consideration. When it is available, this information will be an important consideration in developing responsive management measures to reduce salmon bycatch and understand the potential impacts of salmon bycatch on individual salmon stocks.

Amendment 84 and its implementing regulations give the pollock industry more flexibility to move its fishing operations to avoid areas of high salmon bycatch rates. This action exempted

vessels participating in salmon bycatch intercooperative agreements from existing salmon bycatch closure areas. NMFS implemented Amendment 84 with a final rule published in the **Federal Register** on October 29, 2007 (72 FR 61070). In recommending Amendment 84, the Council recognized that current regulatory management measures, including a bycatch cap that triggered closure of fixed salmon savings areas, have not been effective at reducing salmon bycatch. Amendment 84 provides an alternative approach to managing salmon bycatch which has the potential to be more effective than current regulations.

NMFS and the Council have begun a process pursuant to the Magnuson-Stevens Act and NEPA to analyze alternative management measures to the current Chinook and Chum Salmon Savings Areas in the BSAI. NMFS and the Council published a notice of intent to prepare an EIS on salmon bycatch reduction measures in the BSAI (72 FR 72994, December 26, 2007). The proposed action would replace the current Chinook and Chum Salmon Savings Areas in the BSAI with new regulatory closures, salmon bycatch limits, or a combination of both. These management measures could incorporate current or new bycatch reduction methods. During the approximately two-month scoping period from December 26, 2007, to February 15, 2008, NMFS solicited written comments from the public to determine the issues of concern and the appropriate range of management alternatives for analysis in the EIS.

Comment 7: The high levels of salmon bycatch call into question NMFS's compliance with the Endangered Species Act (ESA), the Magnuson-Stevens Act, the Pacific Salmon Treaty, and the Convention of Anadromous Stocks in the North Pacific Ocean.

Response: NMFS management of the BSAI pollock fisheries is in compliance with the ESA, the Magnuson-Stevens Act, the Pacific Salmon Treaty, the Convention of Anadromous Stocks in the North Pacific Ocean, and other applicable law.

NMFS is complying with the ESA through section 7 consultations on the Alaska groundfish fisheries, including the BSAI pollock fishery, regarding the potential incidental take of ESA-listed salmon. In January 2007, the NMFS Northwest Region completed a biological opinion on the effects of the BSAI groundfish fisheries on ESA-listed salmon. Most of the incidental take of Chinook salmon occurs in the BSAI pollock fishery. In this biological opinion, the incidental take statement

for the Upper Willamette and Lower Columbia River ESA-listed Chinook salmon stocks taken by the BSAI groundfish fisheries was based on the range of recent observations of Chinook salmon taken in those fisheries and on the coded-wire tag recoveries of surrogates of these ESA-listed stocks. Based on coded-wire tag recoveries of salmon taken in the BSAI groundfish fisheries, salmon from the Upper Willamette River and Lower Columbia River ESA-listed Chinook stocks may be taken in the BSAI groundfish fisheries. However, no evidence confirms that any ESA-listed salmon have in fact been taken in the BSAI groundfish fisheries.

Between 2001 and 2006, the incidental take of Chinook salmon in the BSAI groundfish fisheries ranged from 36,000 fish to 87,500 fish. Coded-wire tag recoveries for surrogates for the Lower Columbia River and Upper Willamette River ESA-listed Chinook salmon stocks taken in the BSAI groundfish fisheries has ranged from 0 to a few fish between 2001 and 2006. The biological opinion concluded that the BSAI groundfish fisheries are not likely to jeopardize the continued existence or adversely modify critical habitat for the Upper Willamette River and Lower Columbia River ESA-listed Chinook salmon stocks.

NMFS Alaska Region is currently consulting with NMFS Northwest Region on the 2007 incidental take of Chinook salmon in the BSAI groundfish fisheries. The incidental take of Chinook salmon in the 2007 BSAI groundfish fisheries was approximately 130,000 fish. Even though the number of Chinook salmon incidentally taken in 2007 was higher than seen in previous years, no coded-wire tag surrogates from ESA-listed salmon stocks have been recovered from the samples of bycaught salmon analyzed to date. Analysis of coded-wire tags collected during the 2007 BSAI groundfish fisheries will be completed in late 2008.

Amendment 84 and its implementing regulations are consistent with National Standard 9 of the Magnuson-Stevens Act because they increase the ability of fishery participants to minimize salmon bycatch to the extent practicable. Amendment 84 provides participants in the pollock fisheries the flexibility to conduct pollock fishing in areas of relatively lower salmon bycatch rates and to be responsive to current bycatch rates rather than relying on static closure areas that were established based on historical high bycatch rates.

NMFS and the Council are complying with the Magnuson-Stevens Act in developing additional salmon bycatch reduction measures though the

deliberative Council and public processes established in Title III of the Magnuson-Stevens Act. See response to comment 4. The Council develops and evaluates management measures to ensure that there is a careful analysis of the distinctive elements of the alternatives for each type of measure. This analysis is vital to ensuring that any salmon bycatch reduction measure implemented accomplishes the National Standard 9 requirement to minimize bycatch to the extent practicable. NMFS and the Council are also complying with the analytical requirements of NEPA, Executive Order 12866, and the Regulatory Flexibility Act by evaluating existing measures and developing alternatives that may be necessary to further reduce salmon bycatch.

NMFS and the Council are also complying with the obligations in the Yukon River Agreement to the Pacific Salmon Treaty by developing and analyzing alternative measures to reduce salmon bycatch through the Council process. The Agreement states that the "Parties shall maintain efforts to increase the in-river run of Yukon River origin salmon by reducing marine catches and by-catches of Yukon River salmon. They shall further identify, quantify and undertake efforts to reduce these catches and by-catches" (Art. XV, Annex IV, Ch. 8, Cl. 12). Amendment 84 is consistent with the Yukon River Agreement because it is an element of the Council's efforts to reduce bycatch of western Alaska salmon in the BSAI groundfish fisheries. Additionally, NMFS and the Council are working through the Council's public process to resolve substantive issues involving whether the salmon bycaught in the Bering Sea originated from the Yukon River and whether additional efforts are necessary to ensure compliance with the Agreement. Additionally, NMFS and the Council are considering the recommendations of the Yukon River Panel.

Finally, NMFS and the Council are complying with the obligations in the Convention of Anadromous Stocks in the North Pacific Ocean, which requires that incidental taking of anadromous fish shall be minimized to the maximum extent practicable. NMFS and the Council have implemented management measures to reduce the incidental take of salmon in the pollock fishery, first through the Chinook and Chum Salmon Savings Areas, and currently with the Amendment 84 salmon bycatch intercooperative agreement and the voluntary rolling hotspot system. Additionally, as explained in the response to comment 6, the Council is in the process of evaluating these

existing measures and developing alternatives that may be necessary to further reduce salmon bycatch.

Comment 8: NMFS is required to take immediate action to reduce salmon bycatch in the pollock trawl fishery.

Response: NMFS and the Council have taken and are taking action to reduce salmon bycatch in the pollock trawl fishery because of the potential for negative impacts on salmon stocks. Existing measures have reduced salmon bycatch rates in the pollock fishery compared with what they would have been without the measures. NMFS and the Council are engaged in a comprehensive process to evaluate these existing measures and develop alternatives that may be necessary to further reduce salmon bycatch. See response to comment 6. Applicable Federal law requires that bycatch be minimized to the extent practicable and establishes processes for assessment and responsive implementation of appropriate management measures if and when warranted. The Council and NMFS are engaged in that assessment process with a schedule for decision making and establishment of any new salmon bycatch reduction measures in the pollock fishery. No applicable Federal law requires NMFS to truncate or accelerate this process.

Classification

NMFS determined that the FMP is necessary for the conservation and management of the BSAI groundfish fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This action is authorized under 679.20 and is exempt from review under Executive Order 12866.

NMFS prepared a Final EIS for this action and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the Record of Decision (ROD) for the Final EIS. In January 2007, NMFS prepared a Supplemental Information Report (SIR) for the Alaska Groundfish Harvest Specifications. Copies of the Final EIS, ROD, and SIR for this action are available from NMFS, Alaska Region (see **ADDRESSES**). The Final EIS analyzes the environmental consequences of the proposed action and its alternatives on resources in the action area. The Final EIS found no significant environmental consequences from the proposed action or its alternatives. The SIR evaluates the need to prepare a Supplemental EIS (SEIS) for the 2008 and 2009 groundfish harvest specifications.

An SEIS should be prepared if (1) the agency makes substantial changes in the

proposed action that are relevant to environmental concerns, or (2) significant new circumstances or information exist relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)(1)). After reviewing all relevant information, including the information contained in the SIR and SAFE reports, the Administrator for the Alaska Region has determined that (1) approval of the 2008 and 2009 harvest specifications, which were set according to the preferred harvest strategy in the final EIS, do not constitute substantial changes in the action, and (2) there are no significant new circumstances or information relevant to environmental concerns and bearing on the action or its impacts. Moreover, the 2008 and 2009 harvest specifications will result in environmental impacts within the scope of those analyzed and disclosed in the EIS. Therefore, supplemental NEPA documentation is not necessary to implement the 2008 and 2009 harvest specifications.

The proposed harvest specifications were published in the **Federal Register** on December 6, 2007 (72 FR 68833). An Initial Regulatory Flexibility Analysis (IRFA) was prepared to evaluate the impacts on small entities of alternative harvest strategies for the groundfish fisheries in the Exclusive Economic Zone (EEZ) off Alaska on small entities. The public comment period ended on January 16, 2007. No comments were received regarding the IRFA or the economic impacts of this action. A Final Regulatory Flexibility Analysis (FRFA) was prepared that meets the statutory requirements of the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601–612). Copies of the IRFA and FRFA prepared for this action are available from NMFS, Alaska Region (see **ADDRESSES**). A summary of the FRFA follows.

The action under consideration is adoption of a harvest strategy to govern the harvest of groundfish in the BSAI. The preferred alternative is the status quo harvest strategy in which TACs fall within the range of ABCs recommended through the Council's harvest specification process and TACs recommended by the Council. This action is taken in accordance with the FMP and adopted by the Council pursuant to the Magnuson-Stevens Act.

The need for and objectives of this rule are described in the preamble and not repeated here.

Significant issues raised by public comment are addressed in the preamble and not repeated here.

The directly regulated small entities include approximately 747 small catcher vessels, fewer than 17 small catcher-processors, and six Community Development Quota (CDQ) groups. The entities directly regulated by this action are those that harvest groundfish in the EEZ of the BSAI, and in parallel fisheries within State of Alaska waters. These include entities operating catcher vessels and catcher/processor vessels within the action area, and entities receiving direct allocations of groundfish. Catcher vessels and catcher-processors were considered to be small entities if their annual gross receipts from all economic activities, including the revenue of their affiliated operations, totaled \$4 million per year or less. Data from 2005 were the most recent available to determine the number of small entities. CDQ groups receive direct allocations of groundfish, and these were considered to be small entities because they are non-profit entities. The Aleut Corporation is not a small entity because it is a holding company which does not meet the Small Business Administration's \$6 million threshold for holding companies (13 CFR 121.201).

Estimates of first wholesale gross revenues for the BSAI non-CDQ and CDQ sectors were used as indices of the potential impacts of the alternative harvest strategies on small entities. Revenues were projected to decline from 2007 levels in 2008 and 2009 under the preferred alternative due to declines in ABCs for key species.

The preferred alternative (Alternative 2) was compared to four other alternatives. These included Alternative 1, which would have set TACs so as to generate fishing rates equal to the maximum permissible ABC (if the full TAC were harvested), unless the sum of TACs exceeded the regional optimum yield (OY), in which case harvests would have been limited to the OY. Alternative 3 would have set TACs to produce fishing rates equal to the most recent five year average of fishing rates. Alternative 4 would have set TACs to equal the lower limit of the regional OY range. Alternative 5 would have set TACs equal to zero.

Alternatives 3, 4, and 5 produced smaller first wholesale revenues for each of the three groupings, than Alternative 2. Thus, Alternatives 3, 4 and 5 had greater adverse impacts on small entities. Alternative 1 sets the TACs equal to the maximum permissible ABC unless the sum of these TACs exceed the OY. In 2008 and 2009, the sum of the maximum permissible ABCs exceeded the OY. Therefore, the TACs under Alternative 1

were set equal to the OY. Also, Alternative 2 TACs are constrained by the ABCs that the Plan Team and SSC recommend to the Council on the basis of a full consideration of biological issues. These ABCs are often less than Alternative 1 maximum permissible ABCs. Therefore higher TACs under Alternative 1 may not be consistent with prudent biological management of the resource. For these reasons, Alternative 2 is the preferred alternative in the BSAI (for both non-CDQ and CDQ groups).

This action does not modify any recordkeeping or reporting requirements.

Adverse impacts on marine mammals resulting from fishing activities conducted under this rule are discussed in the Final EIS (see **ADDRESSES**).

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive the 30-day delay in effectiveness for this rule. Plan Team review occurred in November 2007, Council consideration and recommendations in December 2007, and NOAA Fisheries review and development in January–February 2008. For all fisheries not currently closed because the TACs established under the 2007 and 2008 final harvest specifications (72 FR 9451, March 2, 2007) were not reached, the likely possibility exists that they will be closed prior to the expiration of a 30-day delayed effectiveness period because their TACs could be reached. For example, pollock, Pacific cod, and Atka mackerel are intensive, fast-paced fisheries. The TACs for these fisheries are likely to be reached quickly, possibly within 30-days and, as a result, those fisheries could close for the A season before the rulemaking took effect. Similarly, other fisheries, such as those for flatfish, rockfish, and “other species,” are critical as directed fisheries and as incidental catch in other fisheries. If the TACs for these fisheries were reached before the rulemaking took effect, these species may have to be discarded while fishing continued under the existing, 2007 regulations. U.S. fishing vessels have demonstrated the capacity to catch the TAC allocations in all these fisheries. Any delay in allocating the final TACs in these fisheries would cause disruption to the industry and potential economic harm through unnecessary discards. Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by

freeing-up fishing vessels, allowing them to move from closed fisheries to open ones, increasing the fishing capacity in those open fisheries and causing them to close at an accelerated pace.

If the final harvest specifications are not effective by March 8, 2008, which is the start of the Pacific halibut season as specified by the IPHC, the hook-and-line sablefish fishery will not begin concurrently with the Pacific halibut season. This would result in the needless discard of sablefish that are caught along with Pacific halibut as both hook-and-line sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the final 2008 and 2009 harvest specifications will allow the sablefish fishery to begin concurrently with the Pacific halibut season. Also, the immediate effectiveness of this action is required to provide consistent

management and conservation of fishery resources based on the best available scientific information, and to give the fishing industry the earliest possible opportunity to plan its fishing operations. Therefore NMFS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3).

Small Entity Compliance Guide

The following information is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule's primary management measures are to announce final 2008 and 2009 harvest specifications and prohibited species bycatch allowances for the groundfish fishery of the BSAI. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2008 and 2009

fishing years and to accomplish the goals and objectives of the FMP. This action affects all fishermen who participate in the BSAI fishery. The specific amounts of OFL, ABC, TAC, and PSC amounts are provided in tabular form to assist the reader.

NMFS will announce closures of directed fishing in the **Federal Register** and in information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

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

Dated: February 19, 2008.

Samuel D. Rauch III,

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

[FR Doc. E8-3512 Filed 2-25-08; 8:45 am]

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Proposed Rules

Federal Register

Vol. 73, No. 38

Tuesday, February 26, 2008

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket # AMS-FV-07-0140]

United States Standards for Grades of Table Grapes (European or Vinifera Type)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the United States Standards for Grades of Table Grapes (European or Vinifera Type). These standards are issued under the Agricultural Marketing Act of 1946. The changes being proposed are based on the request of the California Grape and Tree Fruit League (CGTFL) to revise the tolerances to include an allowance for shattered berries due to the change of pack style from mostly plain pack to consumer size units. The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA), is proposing a revision to the voluntary standards to add a 5 percent allowance for shattered berries in consumer containers for shipment that are en route or at destination. The standards provide industry with a common language and a uniform basis for trading, thus promoting the orderly and efficient marketing of European or Vinifera Type table grapes.

DATES: Comments must be received by March 27, 2008.

ADDRESSES: Interested persons are invited to submit written comments on the internet at: <http://www.regulations.gov> or to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Room 1661 South Building, Stop 0240, Washington, DC 20250-0240; Fax (202)720-8871. Comments should make reference to the

dates and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Vincent J. Fusaro, Standardization Section, Fresh Products Branch, (202) 720-2185. The United States Standards for Grades of Table Grapes (European or Vinifera Type) are available by accessing the Fresh Products Branch Web site at: <http://www.ams.usda.gov/standards/stanfrrfv.htm>.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), as amended, directs and authorizes the Secretary of Agriculture (To develop and improve standards of quality, condition, quantity, grade and packaging and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.) (AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request.

Executive Order 12866 and 12988

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action. This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of the rule.

Regulatory Flexibility Act and Paperwork Reduction Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Accordingly, AMS has prepared this initial regulatory flexibility analysis. Interested parties are invited to submit information on the regulatory and

informational impacts of this action on small businesses. Comments also are specifically requested on the number and size of producers and handlers of table grapes in the United States.

This rule will revise the U.S. Standards for Grades of Table Grapes (European or Vinifera Type) that were issued under the Agricultural Marketing Act of 1946. Standards issued under the 1946 Act are voluntary.

Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$6,500,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000. According to the National Agricultural Statistics Service (NASS) report of the 2002 Census of Agriculture, there are 23,856 grape farms in the United States. Using additional data from the Noncitrus Fruits and Nuts 2005 Summary, total fresh utilization of grapes was 995,370 tons. Furthermore, the price per ton for grapes in 2005 was \$570.00 and the value of grapes utilized as fresh products was \$567,523,000. Based on the number of farms (23,856), the average producer revenue from the sale of fresh grapes is estimated at approximately \$23,789 per year. Therefore, the majority of fresh grape producers may be classified as small entities.

The number of table grape handlers in the United States is not known. There are approximately twenty handlers regulated under the Marketing Order 925 (7 CFR part 925). Last year, fourteen of the twenty handlers subject to regulation had annual grape sales of less than \$6,500,000. Accordingly, we estimate that the majority of Table grape handlers in the United States are small entities. We welcome information that the public may offer as to the number and size of handlers in the United States.

The effects of this rule are not expected to be disproportionately greater or smaller for small handlers or producers than for larger entities.

The use of grading services and grading standards is voluntary unless required by a specific Act, Federal Marketing Order or Agreement, or other regulations governing domestic, import or export shipments.

USDA has not identified any Federal rules that duplicate, overlap, or conflict

with this rule. Although there is a marketing order program which regulates the handling of European or Vinifera type table grapes under the order, the revision being proposed in this action only affects shattered berries in consumer size containers en route or at destination. As such, the proposed action would not effect table grapes under Marketing Order or under Section 8e of the Agricultural Marketing Agreement Act of 1937.

After considering the request of the CGTFL, AMS is proposing to revise the standard by adding a 5 percent allowance for shattered berries in shipments that are en route or at destination. This revision will make the standards more consistent and uniform with marketing trends and commodity characteristics. This proposed action will not impose any additional reporting or record keeping requirements on either small or large grape producers or handlers.

Background

In November of 2005, AMS received two petitions requesting a revision to the United States Standards for Grades of Table Grapes (European or Vinifera Type). These petitions were received from the CGTFL on November 9, 2005 and Western Growers on November 23, 2005. These two trade associations represent more than 85 percent of the European or Vinifera type table grape production in the United States. They requested an additional 10 percent allowance for shattered berries en route or at destination for grapes in consumer containers. The petitioners stated that they feel change, specific to consumer containers, is warranted as the majority of table grapes are now being sold in consumer containers which allows shattered berries to be fully utilized/sold.

On January 24, 2006, AMS published in the **Federal Register** (71 FR 3818) an Advanced Notice of Proposed Rulemaking (ANPR) soliciting comments on the proposed revision to the United States Standards for Grades of Table Grapes (European or Vinifera Type), which included a 10 percent allowance for shattered berries en route or at destination only in consumer units; the comment period ended on March 27, 2006. AMS received fourteen comments in response to this notice.

Twelve comments supported the proposal; one from a regional agriculture trade association, one from a table grape association, and ten from members of the table grape association. Each of these comments indicated that new improvements to consumer packaging resulted in less shrinkage and

a more sellable product to consumers, and with this improvement, a revision of how shatter is scored was needed.

One comment opposing the proposal was received from a national trade association representing wholesale produce receivers. The receivers' association stated that an additional allowance for shattered berries would be unfairly damaging to receivers and consumers.

Finally, one comment was received from a trade association of shippers of table grapes from the State of Sonora, Mexico. The shippers' association supported the idea of revisiting the standards for table grapes, however, it wanted to investigate the potential effects of an added ten percent allowance during the upcoming season before supporting this revision. The association indicated that the 10 percent allowance seemed high.

As a result of the comments received from the ANPR, AMS published in the **Federal Register** (71 FR 55367) a proposed rule on September 22, 2006. Taking into account the comments received, AMS believed that it would be more beneficial to the overall industry to fully utilize shattered berries that are not otherwise defective, in consumer containers. The majority of table grapes are now sold in consumer containers. A 60-day comment period was allowed for interested parties to comment on the proposed revision. The comment period ended on November 21, 2006.

In response to the proposed rule, AMS received fourteen comments. Twelve comments supported the proposal. Two comments were from regional agricultural trade associations; one comment was from a national table grape association; and nine comments were from members of an agricultural trade association representing growers, packers, shippers and exporters of table grapes. These comments were almost identical to the majority of comments received from the ANPR regarding current packaging and marketing procedures. The comments indicated that because of changes in packaging and marketing practices, a revision of how shatter is scored was warranted.

Two comments opposed the proposal. One comment was received from a national trade association representing wholesale produce receivers, and one from a grower and shipper of table grapes. The receivers' association stated that they saw no reason to provide a special allowance for shattered berries in consumer containers. The comment stated that the proposed allowance would enable more lower-quality product to qualify for the U.S. No. 1 grade. The comment also argued that the

proposal actually allows 22 percent shatter at destination. The commentor also noted that the percentage would be higher if the Perishable Agricultural Commodities Act (PACA) Good Delivery tolerances were taken into account. PACA tolerances may be taken into account when AMS resolves contract disputes under the PACA.

The comment received from the grower and shipper of table grapes opposing the revision stated that it was not appropriate to change the current grade standards and thereby downgrade the industry's and consumers' perception of table grapes in general. The comment also proposed a new grade, "U.S. No. 1 High Shatter" as an alternative. However, the original proposal was for an additional allowance for en route or destination inspections only. Developing a new grade would have resulted in that grade needing to be applied at shipping point in order for it to be applied en route or at destination. Therefore, developing an additional grade was and is not being considered at this time.

One request for a reopening of the comment period was received from a receiver/wholesaler after the comment period ended. At that time, AMS believed that reopening the comment period would not facilitate resolution and would only prolong the then current state of uncertainty, with regard to whether a 10 percent allowance for shattered berries would be allowed.

However, due to the lack of industry consensus concerning the proposed rule, AMS published in the **Federal Register** (72 FR 35668) a notice to withdraw the proposed rule on June 29, 2007. AMS subsequently met with CGTFL and several of its members. CGTFL stated its continued interest in an additional allowance of 10 percent for shattered berries en route or at destination for grapes in consumer containers because the majority of table grapes are now sold in these, which allows shattered berries to be utilized.

AMS also met with the North American Perishable Agricultural Receivers (NAPAR), several of its members and other wholesale produce receivers. Generally, the receivers stated their opposition to an additional allowance for shattered berries based on their belief that such an allowance would be detrimental to the grape industry and consumers.

On October 5, 2007, AMS received a second petition from the CGTFL requesting a revision to the United States Standards for Grades of Table Grapes (European or Vinifera Type). Its petition revision repeated the original request for an additional 10 percent

allowance for shattered grapes en route or at destination for grapes in consumer containers.

The requested change of the petitioners for a 10 percent allowance for shattered berries in addition to the 12% tolerance for total defects could potentially allow for 22 percent defects in a lot and still grade U.S. No. 1 Table. We believe that such a possible percentage is too high and would not appropriately reflect what is expected by industry and consumers in a U.S. No. 1 Table grade. Accordingly, AMS is not proposing this requested 10 percent allowance because AMS believes it would weaken the standard and reduce consumer confidence in the grade. However, AMS recognizes that a change in packaging and marketing has occurred in the Table Grape (European or Vinifera Type) industry. Additionally, AMS believes that due to improvements in packaging, marketing, and shipping that a revision to the current U.S. Standards would be beneficial to both the industry and consumers.

Therefore, AMS is proposing a 5 percent allowance for shattered grapes be added to the United States Standards for Grades of Table Grapes (European or Vinifera Type). The proposed allowance is specific to table grapes en route or at destination in consumer sized packages.

The standards currently provide in section 51.886, Table II Tolerances En Route or at Destination, a 12 percent total tolerance for bunches and berries failing to meet the requirements of grade for en route or at destination. Revising section 51.886, Table II, by adding a 5 percent allowance for shattered berries would mean that shattered berries would not be scored as a defect against the 12 percent total tolerance until the amount of shattered berries exceeds the 5 percent allowance. For example, if a lot has 17 percent shattered berries, 12 percent would be reported as a defect and the lot would meet the requirements of the U.S. No. 1 Table grade provided no other defects were present; however, if a lot of berries has 18 percent shattered berries 13 percent would be reported as a defect, which would cause the lot to fail to meet the requirements of the U.S. No. 1 Table grade by one percentage point.

To enable utilization of this revision in the 2008 season, this action provides a 30-day comment period for interested parties to comment on the proposed revision. Also, AMS is particularly interested in comments and factual data that would demonstrate that this proposed revision would either positively or negatively impact financially interested parties. Specifically, data that shows expected

financial losses due to adjustments made by shippers or conversely, expected additional expenses that would be incurred by receivers due to shattered berries in amounts of five percent or greater.

Accordingly, AMS proposes to amend the United States Standards for Grades of Table Grapes (European or Vinifera Type) as follows:

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and record keeping requirements, Trees, Vegetables.

For reasons set forth in the preamble, 7 CFR part 51 is proposed to be amended as follows:

PART 51—[AMENDED]

1. The authority citation for Part 51 continues to read as follows:

Authority: 7 U.S.C. 1621—1627.

2. In (51.886, paragraph (b), Table II is revised to read as follows:

Subpart—United States Standards for Grades of Table Grapes (European or Vinifera Type)

§ 51.886 Tolerances.

* * * * *

(A) For bunches failing to meet color requirements	10	10	10
(B) For bunches failing to meet requirements for minimum diameter of berries	10	10	10
(C) For bunches failing to meet stem color requirements	10	.....	.....
(D) For offsize bunches and for bunches and berries failing to meet the remaining requirements for the grade	12	12	12
(a) For shattered berries in consumer size packages an allowance of 5 percent is provided. Any percent of shattered berries exceeding the allowance of 5 percent shall be scored as berries failing to meet the requirements of the grade.			
Including in (D):			
(b) For permanent defects	8	8	8
(c) For serious damage	4	4	4
And, including in (c):			
(i) For serious damage by permanent defects	2	2	2
(ii) For decay	1	1	1

* * * * *

Dated: February 19, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 08-848 Filed 2-21-08; 12:25 pm]

BILLING CODE 3410-02-P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 60, 63, 73, and 74

RIN 3150-AI06

Geologic Repository Operations Area Security and Material Control and Accounting Requirements; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: On December 20, 2007 (72 FR 72522), the Nuclear Regulatory

Commission (NRC) published for public comment a proposed rule on Geologic Repository Operations Area Security and Material Control and Accounting Requirements. The public comment period for this proposed rule was to have expired on March 4, 2008. The Nuclear Energy Institute (NEI) has requested an extension to May 5, 2008. Due to the complex nature of the proposed rule, the NRC has decided to extend the comment period until May 5, 2008. In a letter dated January 22, 2008, NEI requested the additional time to fully capture the relevant industry experience with the type of post September 11, 2001 security

enhancements discussed in the proposal.

DATES: The comment period has been extended and now expires on May 5, 2008. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number RIN 3150-AI06 in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety in NRC's Agencywide Documents Access and Management System (ADAMS). Personal information, such as your name, address, telephone number, e-mail address, etc., will not be removed from your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301-415-1677. Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone 301-415-1677).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

Publicly available documents related to this rulemaking, including comments, may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Merri Horn, telephone (301) 415-8126,

e-mail, mlh1@nrc.gov of the Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Dated at Rockville, Maryland, this 20th day of February 2008.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. E8-3597 Filed 2-25-08; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-0216; Directorate Identifier 2008-CE-004-AD]

RIN 2120-AA64

Airworthiness Directives; Przedsiębiorstwo Doswiadczalno-Produkcyjne Szybownictwa "PZL-Bielsko" Model SZD-50-3 "Puchacz" Gliders

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

ACTION: Notice of proposed rulemaking (NPRM).

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

On the pre-flight check of a SZD-50-3 glider, the Right Hand (RH) wing airbrake was found impossible to retract. Investigation revealed that the occurrence was caused by a loose bolt of the "V" shape airbrake bellcrank, named hereafter intermediate control lever. The Left Hand (LH) wing lever also presented, to a lesser extent, a loose bolt.

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

DATES: We must receive comments on this proposed AD by March 27, 2008.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* (202) 493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-

30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4130; fax: (816) 329-4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2008-0216; Directorate Identifier 2008-CE-004-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On January 14, 2008, we issued AD 2008-02-09, Amendment 39-15339 (73 FR 3623, January 22, 2008). That AD required actions intended to address an unsafe condition on the products listed above.

AD 2008-02-09 was issued as an interim action in order to address the need for the immediate inspection for loose attachment bolts in the left-hand

and right-hand wing airbrake intermediate control lever requirement and replacement of loose attachment bolts were found.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, issued Emergency AD No. 2007-0275-E, dated October 24, 2007 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products.

The EASA AD allows for repetitive inspections at intervals not to exceed 100 hours time-in-service or 12 months, whichever occurs first after the initial inspection if no loose bolts are found. The EASA AD also requires replacing the split helical spring lock washers with tab washers and the M8x34 bolts with M8x32 bolts on both wings at the next 1,000-hour inspection after the effective date of the AD.

The Administrative Procedure Act does not permit the FAA to "bootstrap" a long-term requirement into an urgent safety of flight action where the rule becomes effective at the same time the public has the opportunity to comment. The short-term action and the long-term action were analyzed separately for justification to bypass prior public notice.

We are issuing this proposed AD to address the repetitive inspections and mandatory parts replacement issues.

Relevant Service Information

Allstar PZL Glider Sp. z o. o. has issued Service Bulletin No. BE-059/SZD-50-3/2007 "PUCHACZ," dated October 15, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 6 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is \$80 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$480, or \$80 per product.

In addition, we estimate that any necessary follow-on actions would take about 12 work-hours and require parts costing \$40, for a cost of \$1,000 per product.

The estimated total cost on U.S. Operators includes the cumulative costs associated with those airplanes affected by AD 2008-02-09.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the

distribution of power and responsibilities among the various levels of government.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39-15339 (73 FR 3623, January 22, 2008), and adding the following new AD:

Przedsiębiorstwo Doswiadczalno-Produkcyjne Szybownictwa "PZL-Bielsko": Docket No. FAA-2008-0216; Directorate Identifier 2008-CE-004-AD.

Comments Due Date

(a) We must receive comments by March 27, 2008.

Affected ADs

(b) This AD supersedes AD 2008-02-09, Amendment 39-15339.

Applicability

(c) This AD applies to Model SZD-50-3 "Puchacz" gliders, all serial numbers up to and including B-2207, 503199327, 503A04001, 503A05002, and 503A05003, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 27: Flight Controls.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states: On the pre-flight check of a SZD-50-3 glider, the Right Hand (RH) wing airbrake was found impossible to retract. Investigation

revealed that the occurrence was caused by a loose bolt of the "V" shape airbrake bellcrank, named hereafter intermediate control lever. The Left Hand (LH) wing lever also presented, to a lesser extent, a loose bolt.

This AD requires inspection of the LH and RH wing airbrake intermediate control levers for loose attaching bolts and subsequent repetitive inspections and corrective actions, as necessary. As a terminating action, replacement of the bolts and their associated washers is required.

These actions are intended to address the identified unsafe condition so as to prevent loss of the airbrake control system which could result in an inadvertent forced landing with consequent sailplane damage and/or passenger injury.

Requirements Retained From AD 2008-02-09

(f) Do the following unless already done:

(1) Within 10 days after February 1, 2008 (the effective date of AD 2008-02-09), inspect the left-hand (LH) and the right-hand (RH) wing airbrake intermediate control levers for loose attaching bolts following Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE-059/SZD-50-3/2007 "PUCHACZ," dated October 15, 2007.

(2) Before further flight after the inspection required in paragraph (f)(1) of this AD, if any loose bolt is found, replace the split helical spring lock washers with tab washers and replace the M8x34 bolts with M8x32 bolts on both wings following Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE-059/SZD-50-3/2007 "PUCHACZ," dated October 15, 2007. After doing this replacement, no further action is required by this AD.

New Requirements of This AD: Actions and Compliance

(g) If no loose bolts are found in the initial inspection required in paragraph (f)(1) of this AD, repetitively inspect thereafter at intervals not to exceed 100 hours time-in-service (TIS) or 12 months, whichever occurs first, until you are required to do the replacement in paragraph (h) or (i) of this AD. Do the inspection following Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE-059/SZD-50-3/2007 "PUCHACZ," dated October 15, 2007.

(h) If any loose bolt is found during any inspection required in paragraph (g) of this AD, before further flight replace the split helical spring lock washers with tab washers and replace the M8x34 bolts with M8x32 bolts on both wings following Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE-059/SZD-50-3/2007 "PUCHACZ," dated October 15, 2007. After doing this replacement, no further action is required by this AD.

(i) Within the next 1,000 hours TIS after the effective date of this AD, replace the split helical spring lock washers with tab washers and replace the M8x34 bolts with M8x32 bolts on both wings following Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE-059/SZD-50-3/2007 "PUCHACZ," dated October 15, 2007. After doing this replacement, no further action is required by this AD.

FAA AD Differences

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

Other FAA AD Provisions

(j) 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:* Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329-4130; *fax:* (816) 329-0409. 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

(k) Refer to MCAI European Aviation Safety Agency (EASA) Emergency AD No. 2007-0275-E, dated October 24, 2007; and Allstar PZL Glider Sp. z o. o. Service Bulletin No. BE-059/SZD-50-3/2007 "PUCHACZ," dated October 15, 2007, for related information.

Issued in Kansas City, Missouri, on February 20, 2008.

Patrick R. Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8-3579 Filed 2-25-08; 8:45 am]

BILLING CODE 4910-13-P

FEDERAL TRADE COMMISSION

16 CFR Part 23

Guides for the Jewelry, Precious Metals, and Pewter Industries

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Request for public comment on a proposed amendment to the platinum section of the Guides for the Jewelry, Precious Metals, and Pewter Industries.

SUMMARY: The Commission is seeking comments on a proposed amendment to

the platinum section of the FTC's Guides for the Jewelry, Precious Metals, and Pewter Industries, 16 CFR part 23. The amendment provides guidance on how to mark or describe non-deceptively products containing at least 500 parts per thousand, but less than 850 parts per thousand, pure platinum and no other platinum group metals. The Commission is also seeking comment on whether the Guides for the Jewelry, Precious Metals, and Pewter Industries should be revised to provide guidance on how to mark or describe platinum-clad, filled, plated, or overlay products.

DATES: Written comments must be received on or before May 27, 2008.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to "Jewelry Guides, Matter No. G711001" to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered, with two copies, to the following address: Federal Trade Commission/Office of the Secretary, Room 135-H (Annex E), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. If the comment contains any material for which confidential treatment is requested, it must be filed in paper (rather than electronic) form, and the first page of the document must be clearly labeled "Confidential."¹ The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area, and at the Commission, is subject to delay due to heightened security precautions.

Because U.S. postal mail is subject to delay due to heightened security measures, please consider submitting your comments in electronic form. Comments filed in electronic form (except comments containing any confidential material) should be submitted by clicking on the following: <https://secure.commentworks.com/ftc-jewelry> and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at <https://secure.commentworks.com/ftc-jewelry>. If this

¹ Commission Rule 4.2(d), 16 CFR 4.2 (d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

Notice appears at <http://www.regulations.gov>, you may also file an electronic comment through that website. The Commission will consider all comments that [regulations.gov](http://www.regulations.gov) forwards to it.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments will be available to the public on the FTC website, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at <http://www.ftc.gov/ftc/privacy.htm>.

FOR FURTHER INFORMATION CONTACT: Robin Rosen Spector, Attorney, (202) 326-3740, or Janice Podoll Frackle, Attorney, (202) 326-3022, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Guides for the Jewelry, Precious Metals, and Pewter Industries ("Jewelry Guides" or "Guides") address claims made about precious metals, diamonds, gemstones, and pearl products. 16 CFR part 23. The Jewelry Guides provide guidance on how to avoid making deceptive claims and, for certain products, discuss when disclosures should be made to avoid unfair or deceptive trade practices. The Commission is seeking public comment on Section 23.7 of the Jewelry Guides, which addresses claims for platinum products.

Industry guides are administrative interpretations of the application of Section 5 of the FTC Act, 15 U.S.C. 45(a). The Commission issues industry guides to provide guidance for the public to conform with legal requirements. 16 CFR part 17. Failure to follow industry guides may result in corrective action under Section 5 of the FTC Act. In any such enforcement action, the Commission must prove that the act or practice at issue is unfair or deceptive.

Platinum products marketed as "platinum" typically contain at least

85% pure platinum or contain at least 50% pure platinum in combination with other platinum group metals ("PGM") that total 95% PGM.² During the last few years, some manufacturers have marketed products as "platinum" that contain more than 50%, but less than 85%, pure platinum, and no other PGM.³ In a **Federal Register** notice published July 6, 2005 ("2005 FRN"),⁴ the Commission sought comment on whether it should revise the platinum section of the Jewelry Guides to address such products. The comment period closed October 12, 2005.

II. Background

The platinum section of the Jewelry Guides contains a general statement regarding the deceptive use of the term "platinum" (and other PGM) and provides specific examples of misleading and non-violative uses of the term "platinum."⁵ Specifically, Section 7(a) of the Jewelry Guides states that it is "unfair or deceptive to use the words 'platinum,' 'iridium,' 'palladium,' 'ruthenium,' 'rhodium,' and 'osmium,' or any abbreviation to mark or describe all or part of an industry product if such marking or description misrepresents the product's true composition." 16 CFR 23.7(a).

Section 7(b) provides examples of markings or descriptions for products containing platinum that may be misleading:

(1) Use of the word "Platinum" or any abbreviation, without qualification, to describe all or part of any industry product that is not composed throughout of 950 parts per thousand pure Platinum.

(2) Use of the word "Platinum" or any abbreviation accompanied by a number indicating the parts per thousand of pure Platinum contained in the product without mention of the number of parts per thousand of other PGM contained in the product, to describe all or part of an industry product that is not composed throughout of at least 850 parts per thousand pure platinum, for example, "600Plat."

(3) Use of the word "Platinum" or any abbreviation thereof, to mark or describe any product that is not composed

throughout of at least 500 parts per thousand pure Platinum.
16 CFR 23.7(b).

Section 7(c) includes the following four examples of markings and descriptions that are not considered unfair or deceptive:

(1) The following abbreviations for each of the PGM may be used for quality marks on articles . . . [section lists the two-letter and four-letter abbreviations for the PGM].

(2) An industry product consisting of at least 950 parts per thousand pure Platinum may be marked or described as "Platinum."

(3) An industry product consisting of 850 parts per thousand pure Platinum, 900 parts per thousand pure Platinum or 950 parts per thousand pure Platinum may be marked "Platinum," provided that the Platinum marking is preceded by a number indicating the amount in parts per thousand of pure Platinum. . . . Thus, the following markings may be used: "950Pt.," "950Plat.," "900Pt.," "900Plat.," "850Pt.," or "850Plat."

(4) An industry product consisting of at least 950 parts per thousand PGM, and of at least 500 parts per thousand pure Platinum, may be marked "Platinum," provided that the mark of each PGM constituent is preceded by a number indicating the amount in parts per thousand of each PGM, as for example, "600Pt.350Ir.," "600Plat.350Irid.," "550Pt.350Pd.50Ir.," or "550Plat.350Pall.50Irid."
16 CFR 23.7(c).

On December 15, 2004, Karat Platinum, a jewelry manufacturer, requested an opinion from the FTC staff regarding the application of the Jewelry Guides to a product called "Karat Platinum" consisting of 585 parts per thousand ("ppt") pure platinum and 415 ppt copper and cobalt (non-precious metals).⁶ The request stated that the company's reading of the Guides indicated that the platinum section did not prohibit marking or describing the product as "Platinum" and that the Guides did not address how to mark or describe an alloy with this composition other than to require that any representation be truthful and not misrepresent the product's composition.

The staff posted this request on the FTC's website on December 17, 2004 and invited the industry to provide comments by January 5, 2005.⁷ The staff

² The Platinum Group Metals include platinum, iridium, palladium, ruthenium, rhodium, and osmium.

³ We are aware that some companies are selling similar products but marketing them under names other than "platinum."

⁴ 70 FR 38834 (July 6, 2005).

⁵ On April 8, 1997 (62 FR 16669), the Commission published the current platinum section of the Jewelry Guides. The Commission revised this section as part of a comprehensive review of all of the provisions of the Guides.

⁶ The request for a staff opinion and the staff's response to that request can be found at www.ftc.gov/os/statutes/jewelry/letters/karatplatinum.pdf and www.ftc.gov/os/statutes/jewelry/letters/karatplatinum002.pdf, respectively.

⁷ The staff later extended the comment period until January 10, 2005.

received sixteen comments from jewelry trade associations and retailers.⁸

On February 2, 2005, the staff responded to the request for an opinion stating:

The Guides provide that, in order for a product to be marked or described as “platinum,” the product must contain a minimum of 500 ppt pure platinum. 16 CFR § 23.7(b)(3). In addition, the Guides provide that, if a product contains 500 ppt pure platinum but less than 850 ppt pure platinum, the marketer must disclose the amount in ppt of the remaining PGM in the product. 16 CFR § 23.7(b)(2).

In our opinion, a literal reading of the Guides indicates that they do not address the marketing of the Karat Platinum alloy, except to the extent that they require a minimum of 500 ppt pure platinum. The provisions of Section 23.7 that address misuse of the word “platinum” do not discuss how to mark or describe an alloy that contains over 500 ppt pure platinum but no other PGM.

The staff letter further explained that the marketing of the Karat Platinum alloy would be subject to Section 23.1 of the Guides, which contains a general statement on deception, as well as Section 5 of the FTC Act.⁹

The letter stated that the staff considered “this alloy to be sufficiently different in composition from products consisting of platinum and other PGM to require clear and conspicuous disclosure of the differences.” The staff letter also stated that it did not appear “that simple stamping of the jewelry’s content (*e.g.*, 585 Plat., 0 PGM) would be sufficient to alert consumers to the differences between the Karat Platinum alloy and platinum products containing other PGM.”

Because of the public interest in this issue, on July 6, 2005, the Commission issued a **Federal Register** notice soliciting public comment regarding whether it should revise the Guides to address products composed of at least 500 ppt, but less than 850 ppt, pure platinum and no other PGM. The Commission received comments

through the extended October 12, 2005 deadline.¹⁰

Additionally, the notice stated that the staff had received some inquiries regarding the application of the platinum section of the Guides to the marketing of platinum-clad or platinum-coated jewelry products. The platinum section of the Guides currently does not address platinum-clad, filled, plated, or overlay products. Other sections of the Guides, however, address gold and silver-plated jewelry products.¹¹ These sections generally advise that the plating must be of a sufficient thickness to ensure reasonable durability. The 2005 FRN, therefore, also sought comment regarding whether the Guides should provide guidance on how to mark or describe non-deceptively platinum-clad, filled, coated, or overlay jewelry products. The Commission received several comments with regard to this issue stating that there is a need for guidance for platinum-coated or plated products with respect to the thickness of the coating and the purity of the platinum.¹² Because these comments did not propose specific guidance, this **Federal Register** notice is seeking such guidance with regard to platinum-clad, filled, coated, and overlay jewelry products.

III. Response to June 2005 Notice Seeking Comment on the Platinum Section of the Jewelry Guides

A. Summary of Comments

The FTC received 62 comments in response to the 2005 FRN. The FRN requested comments on two main issues—first, should the platinum section of the Guides be amended to address jewelry products containing at least 500 ppt, but less than 850 ppt, pure platinum and no other PGM (“platinum/base metal alloy”); second, if guidance is appropriate, what should the guidance provide. With regard to the first issue, the majority of the comments recommend that the Commission revise the Guides to include guidance regarding appropriate markings or descriptions for platinum/base metal alloy jewelry products. A joint comment from several jewelry trade associations¹³

(hereinafter “JVC”) states that “[i]ndustry members universally believe that the Guides should be revised to address products that contain 500-850 ppt pure platinum and no other PGM. Since products employing this alloy (and others) have become available, clarity in marking and description standards for these products is needed.”¹⁴ Similarly, a comment from Platinum Guild International (“PGI”) recommends that “the FTC amend the Platinum Guides and provide for an unambiguous and transparent standard.”¹⁵ The majority of the comments from jewelry retailers support the JVC and PGI recommendations.¹⁶

Karat Platinum’s comment takes a contrary position. Karat Platinum asserts that the Commission does not need to amend the Guides because the existing guidance in the platinum section, combined with the staff opinion letter issued in February 2005,¹⁷ adequately inform marketers how to mark or describe such products.

With regard to the second issue, commenters disagree about the guidance the Commission should provide for the marketing of platinum/base metal alloy jewelry. The JVC and PGI comments argue that the Commission should revise the Guides to prohibit marketers from marking or describing platinum/base metal alloy jewelry as “platinum” entirely.¹⁸ JVC and PGI assert that

¹⁴ JVC comment at 3.

¹⁵ PGI comment at 24.

¹⁶ The following comments recommend that the Commission revise the Guides to include guidance regarding products contain 500 ppt, but less than 850 ppt, pure platinum and no other PGM: Kwiat; Albert Malky, Inc.; John A. Green (Lux Bond & Green); Loyd Stanley (Stanley Jewelers Gemologist); JCK Publishing; Traditional Jewelers; Cathy Carmendy, Inc.; Joan Mansbach (Mansbach Creative); M. Fabrikant & Sons; Renee Moskowitz (Harper’s Bazaar); Nessi Erkmengoglu (Harper’s Bazaar); Stephen Walker (Walker Metalsmiths, Inc.); Lieberfarb, Inc.; Gemstones, Etc.; Saturn Jewels; Kaiser Time, Inc.; Coge Design Group; Day’s Jewelers; Stuller, Inc.; Harvey Rovinsky (Bernie Robbins Fine Jewelry); JCM Designs, Inc., d/b/a Judith Conway; Joseph Barnard (Bernie Robbins Fine Jewelry); Jeff Cooper, Inc.; Alexander Primak Jewelry, Inc.; Hearts on Fire Co.; Kirk Kara; Vogue Magazine; Allan Freilich (Freilich Jewelers, Inc.); Cede Schmuckdesign GmbH; Representative Henry A. Waxman (writing on behalf of Martin Katz, Ltd.); Grando, Inc.; Susan Eisen (Susan Eisen Fine Jewelry and Watches); Zoltan David (Zoltan David Precious Metal Art); and Brian Guymon.

¹⁷ See *supra* note 6.

¹⁸ JVC comment at 4; PGI comment at 26. The following additional comments support this recommendation: Kwiat; Albert Malky, Inc.; John A. Green (Lux Bond & Green); C.F. Kisner, Inc.; Loyd Stanley (Stanley Jewelers Gemologist); JCK Publishing; Dana Sergenian; Traditional Jewelers; Cathy Carmendy, Inc.; Joan Mansbach (Mansbach Creative); M. Fabrikant & Sons; Renee Moskowitz (Harper’s Bazaar); Nessi Erkmengoglu (Harper’s Bazaar); Robert Rowe (Lucky Magazine); Lieberfarb, Inc.; Richard Kremenitz Gemstones; Saturn Jewels; Kaiser Time, Inc.; Hank Siegel (Hamilton

⁸ The Jewelers Vigilance Committee, Platinum Guild International, Manufacturing Jewelers & Suppliers of America, American Gem Society, Jewelers of America, Sonny’s On Fillmore, Kwiat, Inc., Cornell’s Jewelers, Michael Bondanza, Inc., PMI, Traditional Jewelers, Stanley Jewelers Gemologist, Davidson & Licht, Henne Jewelers, Johnson Matthey, and MJ Christensen submitted comments.

⁹ Section 5 of the FTC Act prohibits deceptive acts or practices, in or affecting commerce. 15 U.S.C. 45(a).

¹⁰ 70 FR 57807 (October 4, 2005).

¹¹ See 16 CFR 23.4 and 23.6 (addressing gold-plated, gold-filled, gold-overlay, gold-electroplated, and silver-plated jewelry products).

¹² The Jewelers Vigilance Committee, Platinum Guild International, and a jeweler manufacturer (Sasha Primak) state that there is a need for specific guidance regarding the thickness of the coating or plate and the purity of the platinum employed to cover the base metal.

¹³ The associations include: Jewelers Vigilance Committee, Manufacturing Jewelers and Suppliers of America, Jewelers of America, and American Gem Society.

platinum is not like gold, which requires mixing with an alloy to make it more durable for jewelry.¹⁹ Platinum jewelry, JVC and PGI explain, has always been produced as nearly pure or combined with other PGM. JVC and PGI state that alloys with non-PGM do not share the same characteristics as pure platinum or platinum alloyed with PGM.²⁰ These comments assert that disclosure of the differences between the two types of alloys would be complicated and highly technical and likely engender significant consumer confusion and deception.²¹

As its primary support, PGI commissioned a study from Thomas J. Maronick, titled "Platinum Awareness Study: An Empirical Analysis of Consumers' Perceptions of Platinum as an Option in Engagement Ring Settings" ("Maronick study"). The Maronick study polled 332 consumers, aged 21 through 34, who expect to become engaged in the next 12 months. PGI also submitted a 2003 marketing survey conducted by Hall & Partners ("Hall & Partners study") that consisted of 600 online interviews of women (ages 18-34) and men (ages 25-34). Additionally, PGI submitted two tests evaluating platinum/base metal alloys. The first test, by Hoover & Strong, compared a product that contained 59.2% platinum, 36.59% copper, 3.9% cobalt and trace amounts of gold, silver, and nickel to three products, one containing 950 ppt pure platinum, one containing 950 ppt palladium, and one containing 14 karat white gold. The second test, by Daniel Ballard of Precious Metals West, evaluated the properties of three different 585 ppt pure platinum/base metal alloys. It does not appear that the PGI tests evaluated a product identical in composition to the Karat Platinum platinum/base metal alloy.

The Maronick study concludes that consumers expect a high level of purity in a product marked "platinum." The majority of consumers surveyed stated that they would expect a ring labeled "platinum" to contain 80% or more

pure platinum.²² The Maronick study also reports that if a ring has 40% or more non-PGM, over a third of the consumers surveyed would not expect the ring to be called "platinum."²³ If the ring does not have all of the properties of pure platinum, more than 50% percent of consumers polled would not expect it to be called "platinum."²⁴ The study further reports that even if a platinum product with 40% base metals shared all the properties of pure platinum products, 29% of consumers would not expect the product to be called "platinum."²⁵

In addition, according to the study, 88% of consumers polled felt it was at least somewhat important to know the properties of a product before purchase (two-thirds of these consumers felt it was very important).²⁶ The study further concludes that the properties typically associated with platinum are important to most consumers' purchasing decisions. Specifically, between 60% and 90% of consumers polled responded that it was important to know a jewelry product's weight (76.2%) and whether the product is durable (93%), scratch and tarnish resistant (89.8% and 90.5%, respectively), able to be resized (82.2%), and hypoallergenic (64.4%).²⁷

To further support its position, PGI refers to the Hall & Partners survey, which reported that the majority of consumers polled associate rarity, strength, and purity with platinum jewelry.²⁸ These consumers also view platinum as superior to other metals.²⁹

The PGI and JVC comments assert that, because consumers understand platinum jewelry to be a pure or nearly pure product, marking products with lower amounts of pure platinum and no other PGM as "platinum" is deceptive.³⁰ JVC and PGI explain that consumers believe that using the word "platinum" conveys that the product is pure and contains the qualities consumers expect from traditional platinum jewelry.

The PGI and JVC comments also assert that consumers do not understand numeric jewelry markings listing metal content, such as 585Pt/0PGM or 585Pt./415 Co.Cu., or the karat systems used for gold markings.³¹ The Maronick study

asked consumers whether they knew what 585 plat; 0 pgm meant and only 5.2% responded yes.³² Of that 5.2%, however, only two consumers (less than 1% of the total consumers surveyed) correctly described the marking. The Maronick study also probed whether consumers understood a platinum/base metal alloy marking, "585 plat; 415 CO/CU." Only 7.5% stated they knew what this marking meant, but only 6.9% of those consumers actually understood that the marking described the proportion of platinum and other metals in the jewelry product.³³ Similarly, with respect to gold markings, the Maronick study reports that although 82.2% of respondents indicated they knew what 14 karat gold meant, only 16% of those respondents accurately indicated that it meant 58-59% gold.³⁴

In addition, the PGI product testing shows that certain platinum/base metal alloys are inferior to platinum/other PGM alloys in terms of wear and oxidation resistance, weight loss, and ability to withstand a welding/soldering procedure for sizing.³⁵ The testing further shows that the platinum/base metal alloys in these tests may not be hypoallergenic.³⁶ It is not clear from the testing PGI submitted that all platinum jewelry products with less than 850 ppt pure platinum alloyed with base metals would yield the same test results. These tests evaluated products with 58.5-59.2% pure platinum. The record does not address whether products that contain a higher percentage of platinum, or the same percentage of platinum alloyed with different base metals, would produce different test results.

Based on their tests, JVC and PGI assert that, to avoid deception, marketers would need to disclose how platinum/base metal alloy jewelry products differ from traditional platinum jewelry in durability, strength, hypoallergenic properties, weight, purity, scratch resistance, tarnishability, and ability of jewelers to repair or resize the product. PGI and JVC, however, contend that appropriate and prominent disclosures addressing such extensive information are not feasible at the retail level.³⁷ Accordingly, JVC and PGI assert

that "Co" is the abbreviation for copper. JVC comment at 7.

³² PGI comment, Attachment A, at 25.

³³ *Id.* at 26.

³⁴ *Id.* at 24.

³⁵ PGI comment, Attachment C.

³⁶ PGI comment, Attachment D.

³⁷ PGI contends that the Hall & Partners study supports this assertion. That study showed that only 25-30% of those people surveyed responded that sales people explained the differences between the different metals (gold, white gold, and platinum), and only 22-24% of consumers surveyed

Company); Vittorio Bassan (Stuart Moore, Ltd.); Coge Design Group; Day's Jewelers; Stuller, Inc.; Harvey Rovinsky (Bernie Robbins Fine Jewelry); JCM Designs, Inc., d/b/a Judith Conway; Joseph Barnard (Bernie Robbins Fine Jewelry); Jeff Cooper, Inc.; Alexander Primak Jewelry, Inc.; Hearts on Fire Co.; Kirk Kara; Vogue Magazine; Allan Freilich (Freilich Jewelers, Inc.); Cede Schmuckdesign GmbH; Representative Henry A. Waxman (writing on behalf of Martin Katz, Ltd.); Grando, Inc.; Susan Eisen (Susan Eisen Fine Jewelry and Watches); Zoltan David (Zoltan David Precious Metal Art); Techform Advanced Casting Technology; Douglas Liebman (Douglas M. Liebman, Inc.); Brian Guymon; and Wayne Schenk.

¹⁹ JVC comment at 4; PGI comment at 16.

²⁰ JVC comment at 7-8; PGI comment at 17-19.

²¹ JVC comment at 7; PGI comment at 15.

²² PGI Comment, Attachment A, at Table 3.

²³ *Id.*, Table 7.

²⁴ *Id.*, Table 11.

²⁵ *Id.*, Table 8.

²⁶ *Id.*, Table 12.

²⁷ *Id.*, Table 13.

²⁸ PGI Comment, Attachment B, at 16, 28.

²⁹ *Id.* at 15, 25.

³⁰ JVC comment at 7-8; PGI comment at 17-19.

³¹ PGI comment, Attachment A, Table 14. JVC notes that consumers are not experts in the Periodic Table of Elements and likely would not even know

that given consumers' perceptions of platinum jewelry, consumer confusion regarding jewelry markings, and their testing data, the appropriate course to avoid deception is to amend the Guides to state that products that do not contain at least 50% platinum and a combination of at least 950 ppt pure platinum and other PGM cannot be marked or described "platinum."³⁸

JVC and PGI further submit that state laws in California, New York, New Jersey, Illinois, and Wisconsin do not permit platinum/base metal alloy jewelry products to be marked or described as "platinum." These state laws are based on historical Department of Commerce Voluntary Product Standards ("VPS"). JVC explains that the five state statutes require products to contain 950 ppt pure platinum (with solder) or 985 ppt (without solder) to be marked or marketed as "platinum" without qualification.³⁹ These statutes permit qualified platinum markings for products with at least 500 ppt pure platinum and 950 ppt total PGM.⁴⁰

Finally, JVC and PGI state that the International Standards Organization ("ISO") standard for platinum markings also precludes marking or describing products as platinum unless they contain at least 850 ppt pure platinum.⁴¹ JVC and PGI contend, that because many countries have adopted ISO standards, platinum/base metal alloy jewelry generally could not be marked as "platinum" if sold abroad.⁴²

Karat Platinum disagrees with JVC's and PGI's positions on virtually every point. First, Karat Platinum states, that if the Commission determines that revising the Guides is appropriate, the revised Guides should simply codify the language in the February 2005 staff opinion letter. Karat Platinum further asserts that its platinum/base metal

alloy does share almost all of the same qualities as traditional platinum products.⁴³ It submitted testing of its alloy showing that it is superior to traditional platinum products in terms of strength, hardness, and casting ability, and that its ability to resist corrosion is equivalent to other platinum products. The only attribute of potential difference, according to Karat Platinum's study, is density—its platinum/base metal alloy is less dense.⁴⁴ Karat Platinum's test did not evaluate whether its alloy is hypoallergenic.

Karat Platinum further explains that, consistent with the FTC staff's advice, it will disclose its product's full composition, which will give consumers complete information about the content of the product and promote it as a "new product."⁴⁵ Karat Platinum did not submit any consumer survey evidence evaluating how consumers interpret its proposed marketing. It asserts, however, that consumers will understand that its product contains less platinum than traditional platinum jewelry because the description will put consumers on notice about the amount of platinum in the product and the "new" representations will alert consumers that it is different.⁴⁶ Karat Platinum asserts that consumers do understand karat markings. Karat Platinum argues that consumers know that gold has different levels of purity and is alloyed with different metals, and will similarly understand that platinum jewelry is not pure and is alloyed with different metals.⁴⁷

Prohibiting marketers from using the word "platinum" because a product contains less than 85% platinum and no other PGM will not benefit consumers, according to Karat Platinum. This prohibition, Karat Platinum contends, will deprive consumers of truthful and accurate information about the product and the opportunity to own more affordable, high quality platinum jewelry.⁴⁸

B. Analysis of the Comments

The record supports the following conclusions: (1) a substantial number of consumers believe products marked or described as "platinum" are pure and possess certain desirable qualities; (2) a substantial number of consumers generally would not expect platinum/base metal alloy jewelry to be marked or

described "platinum"; (3) many consumers do not fully understand numeric jewelry markings and chemical symbols and may find them confusing; (4) testing data in the record suggests that some platinum/base metal alloys do not possess all of the qualities of higher purity platinum jewelry that consumers expect; and (5) the consumer perception and product testing data support revising the Guides to address the marketing of platinum/base metal alloys, as explained below.

1. Consumer Perceptions Regarding the Use of the Term "Platinum"

The survey evidence PGI submitted, particularly the Maronick study, provides insight into consumer perceptions regarding the use of the term "platinum" to describe jewelry. The Maronick study presents evidence that many consumers understand that products marked or described as "platinum" are pure or nearly pure and that certain qualities or attributes typically associated with platinum are important to a substantial number of consumers. These qualities or attributes include the product's weight, durability, scratch and tarnish resistance, and whether it is hypoallergenic and can be resized.

2. Consumer Expectations Regarding Products Described as "Platinum"

The Maronick study further found that a majority of consumers would not expect platinum/base metal alloys containing more than 40% base metal to be called "platinum," particularly if they do not possess the qualities and attributes present in higher purity platinum or platinum/other PGM products, such as those containing at least 850 ppt pure platinum, or at least 500 ppt pure platinum and at least 950 ppt PGM. These findings indicate that many consumers have high expectations regarding products described as platinum, and draw the conclusion that such products possess certain qualities or attributes that make them superior to products consisting of other metals (e.g., superior strength, durability, and resistance to scratching and tarnishing).

3. Consumer Understanding of Numeric Jewelry Markings

The Maronick study also provides evidence that many consumers do not fully understand numeric jewelry markings, particularly those using chemical symbols, such as 585 Pt./415 Co.Cu. The Maronick study, however, does not address what consumers take away from these numeric and symbolic markings for platinum jewelry products. The study asked consumers: "Do you

believed that sales people helped them to understand the differences. PGI comment, Attachment B.

³⁸ JVC comment at 4; PGI comment at 26.

³⁹ PGI comment at 3, 9 & n.33; JVC comment at 2 & n.2. Both PGI and JVC cite Cal. Bus. & Prof. Code §§ 22120-22132; Ill. Comp. Stat. §§ 395/0.01-395/0.11 (Platinum Sales Act); N.J. Stat. § 51:6 (Platinum and Alloys); N.Y. Gen. Bus. §§ 230-238 (Platinum Stamping); Wis. Stat. § 134.33 (Platinum Stamping).

⁴⁰ The statutes require that marketers must disclose the product composition indicating the number in ppt of each metal to qualify the platinum marking. See Cal. Bus. & Prof. Code §§ 22120-22132; Ill. Comp. Stat. §§ 395/0.01-395/0.11 (Platinum Sales Act); N.J. Stat. § 51:6 (Platinum and Alloys); N.Y. Gen. Bus. §§ 230-238 (Platinum Stamping); Wis. Stat. § 134.33 (Platinum Stamping).

⁴¹ JVC comment at 8 & n.4; PGI comment at 20 (both citing ISO 9202:1991(E), "Jewellery - Fineness of precious metal alloys"). PGI explained that the ISO standard provides for three values in ppt for platinum jewelry: 950, 900, and 850. *Id.*

⁴² JVC comment at 8; PGI comment at 20.

⁴³ Karat Platinum comment at 2.

⁴⁴ *Id.* at 3 and Exhibit A.

⁴⁵ *Id.* at 4.

⁴⁶ *Id.* at 5.

⁴⁷ *Id.* at 6-7.

⁴⁸ *Id.* at 1.

know what ‘585plat, 415 CO/CU’ means?” If consumers said no, the study did not ask follow up questions probing their actual understanding.⁴⁹ While consumers clearly could not identify the metals represented by the markings, it is not clear whether they understood that the product contained platinum and two other metals or that it contained a lower percentage of platinum than products without the markings. In a potentially analogous situation, the Maronick study showed that, even though many consumers cannot define the term “14 karat gold” accurately, the term does convey important information. Specifically, consumers understand that “14 karat” represents the amount of gold in the product, and that 18 karat gold jewelry contains more gold than 14 karat gold jewelry.⁵⁰

While numerical and chemical markings may provide some useful information to consumers, the record indicates that even using full names and no chemical abbreviations to disclose the composition of platinum/base metal alloys may be inadequate. Specifically, the Maronick study shows that many consumers expect products described as platinum to have certain qualities and attributes, even if they consist in part of non-platinum group metals. Disclosure using full chemical names, therefore, might not provide adequate notice that the product may differ from products containing at least 850 ppt pure platinum, or at least 500 ppt pure platinum and at least 950 ppt PGM, with respect to one or more qualities or attributes important to consumers.

4. Testing Data of Platinum/Base Metal Alloys

It is, therefore, important to determine whether platinum/base metal alloys have the same properties as products containing at least 850 ppt pure platinum, or at least 500 ppt pure platinum and at least 950 ppt PGM. The record provides a useful, albeit inconclusive, answer. Specifically, the record suggests that at least some platinum/base metal alloys do not possess all of the qualities of products containing at least 850 ppt pure platinum, or at least 500 ppt pure platinum and at least 950 ppt PGM. On one hand, PGI’s testing indicates that certain platinum/base metal alloys are inferior to higher purity platinum jewelry in terms of wear and oxidation resistance, as well as weight loss, and that they cannot be resized using certain procedures.⁵¹ On the other hand, Karat

Platinum’s testing suggests that its alloy is superior or equivalent to higher purity platinum jewelry in several respects. Karat Platinum’s testing, however, showed that its alloy is less dense than higher purity platinum jewelry, and it did not test whether the alloy is hypoallergenic.

Accordingly, the record is incomplete regarding the extent to which platinum/base metal alloys differ from higher purity platinum or platinum/other PGM jewelry with respect to those qualities material to consumers’ purchasing decisions. The record is also incomplete regarding the extent to which the qualities and attributes of jewelry differ depending on the percentage of platinum and the type and percentage of base metal in the jewelry. The record does indicate, however, that at least some platinum/base metal alloys likely do not have all, or substantially all, of the qualities or attributes that consumers view as important in purer platinum products, such as those containing at least 850 ppt pure platinum, or at least 500 ppt pure platinum and at least 950 ppt PGM.

5. The Record Supports Amending the Platinum Section of the Guides

The record on consumer perception and the product testing described above supports amending the Guides to address the marketing of platinum/base metal alloys. In particular, the record supports revising the Guides to state that marketers may describe platinum/base metal alloys as platinum, provided they adequately qualify the claim.

The platinum section of the FTC’s Jewelry Guides currently provides that the unqualified use of the word “platinum” is deceptive for products that do not contain 950 ppt or more pure platinum. It also provides guidance on how marketers may qualify the word to describe certain products containing less than 950 ppt pure platinum. The Guides, however, do not address claims for products containing at least 500 ppt pure platinum alloyed with base metals. The JVC, PGI, and numerous retailers recommend that the FTC amend the platinum section of the Guides to state that even the qualified use of the word “platinum” to describe these products would deceive consumers.⁵² Based on the current record, however, the Commission cannot conclude that the

properly qualified use of the word platinum to describe every platinum/base metal alloy would materially mislead consumers. Accordingly, we do not propose to amend the Guides in this manner.

The weight of the evidence leads us to conclude that there is a high probability of consumer deception if marketers describe platinum/base metal alloys as “platinum” qualified only with a disclosure of the product’s metal content using numbers and chemical abbreviations.⁵³ As discussed above, the record indicates that many consumers have pre-existing beliefs about the qualities of products marked or described as “platinum,” and at least some platinum/base metal alloys may not meet their expectations. The record also provides evidence that numeric markings and chemical abbreviations confuse many consumers. Thus, describing a platinum/base metal alloy as platinum and disclosing its metal content using numbers and chemical abbreviations would most likely fail to inform many consumers that the product differs from traditional platinum products with respect to the product’s purity as well as the qualities and attributes important to consumers. The record, therefore, demonstrates that marketers selling platinum/base metal alloys should disclose more detailed information to prevent deception.

To address potential consumer confusion regarding numbers and chemical abbreviations, the Commission proposes amending the Guides to state that marketers of platinum/base metal alloys described as platinum should expressly disclose that the product contains platinum and other non-platinum group metals and also separately disclose the product’s full composition, by name and not abbreviation, and the percentage of each other metal in the product.⁵⁴ By

⁵³ Karat Platinum’s suggestion that it will also market the product as “new,” which, it contends, conveys that the product differs from traditional platinum products and should prompt consumers to seek information about the product, is, at best, a temporary solution. Karat Platinum presumably will not market this product as “new” forever. In any event, a mere representation that a product is new would not disclose how it differs from products containing a higher percentage of platinum.

⁵⁴ This disclosure provides for the use of percentages rather than ppt because the survey evidence revealed that ppt markings, like numbers and chemical abbreviations, confuse consumers. The other provisions of the platinum section of the Guides provide for compositional disclosures using ppt. As discussed below, the proposed amendment would allow for the physical stamping of platinum/base metal alloy jewelry using ppt and chemical abbreviations. It is only the full composition

Continued

⁴⁹ PGI Comment, Attachment A, at 42.

⁵⁰ *Id.* at 24.

⁵¹ PGI did not test Karat Platinum’s alloy.

⁵² JVC and PGI acknowledge that a qualified use of the word “platinum” could, in theory, address consumer confusion or deception stemming from the use of the term “platinum” to describe platinum/base metal alloys. Yet, JVC and PGI assert that it would be impracticable and likely ineffective to make the lengthy, detailed disclosures that they believe would be needed to prevent deception.

disclosing the composition of the jewelry in this manner, marketers would alert consumers to the presence of particular metals and help prevent deception regarding the purity of products described as platinum.

For the reasons noted above, a full name composition disclosure should alleviate the confusion regarding a platinum/base metal alloy product's purity but would not necessarily alleviate all confusion regarding the product's other properties. The record demonstrates that use of the word "platinum," even in conjunction with a compositional disclosure, conveys important quality information to consumers (*i.e.*, that the product possesses qualities typically associated with platinum). As such, the record indicates a need for additional disclosure to prevent deception. Therefore, the proposed Guides state that marketers should expressly disclose that a platinum/base metal alloy product may not have all the properties that consumers associate with higher purity platinum/other PGM products.

The record does not address whether the term Karat Platinum or other qualifying moniker, either in conjunction with a compositional disclosure or without one, might imply that the product either differs in some respects from other products containing platinum or is comparable to other such products in material respects. Thus, we do not have a basis to conclude that use of the term Karat Platinum or other qualifying moniker will sufficiently alert consumers to the potential differences between platinum/base metal alloy jewelry products and higher purity platinum/other PGM products with respect to the properties material to consumers.

As noted earlier, the record does not include sufficient evidence for the Commission to identify which platinum/base metal alloys differ from products containing at least 850 ppt pure platinum, or at least 500 ppt pure platinum and at least 950 ppt PGM, and with respect to which attributes. Some platinum/base metal alloys, however, may be equivalent to products containing at least 850 ppt pure platinum, or at least 500 ppt pure platinum and at least 950 ppt PGM, with respect to some, or all, of the attributes important to consumers depending upon the percentage of platinum and both the percentages and types of base metals. For this reason, the proposed amendment provides that a marketer need not disclose that its

disclosure that will differ in that it provides for the use of percentages.

product may not have the same attributes or properties as products containing at least 850 ppt pure platinum, or at least 500 ppt pure platinum and at least 950 ppt PGM, if the marketer has competent and reliable scientific evidence that, with respect to all attributes or properties material to consumers (*e.g.*, the product's durability, hypoallergenicity, resistance to tarnishing and scratching, and the ability to resize or repair the product), such product is equivalent to products containing at least 850 ppt pure platinum, or at least 500 ppt pure platinum and at least 950 ppt PGM.

C. Harmonization with State Law and International Standards

The record includes evidence that laws in at least five states and an ISO standard that some countries have adopted do not permit platinum/base metal alloy products to be marked or described as "platinum." Thus, JVC and PGI contend that, if the FTC issues guidance allowing such products to be marked as "platinum," our Guides will conflict with state law and international standards. Although the Commission generally prefers to harmonize its guidance with state and international laws and standards, Commission Guides must be based upon the Section 5 deception or unfairness standard.⁵⁵

The state laws and the ISO standard discussed above are not based upon a deception or unfairness standard. As explained above, the state laws that JVC and PGI cite are based upon VPS that the Department of Commerce promulgated 75 years ago.⁵⁶ VPS are developed through general consensus among affected parties.⁵⁷ Similarly, ISO

⁵⁵ The Trade Agreements Act of 1979 states that no federal agency "may engage in standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States and that federal agencies must, in developing standards take into consideration international standards and shall, if appropriate, base the standards on international standards." 19 U.S.C. § 2532(2)(A). The term "standard" in the Act includes guidelines that are not mandatory, such as the Jewelry Guides. The Act provides, however, that "the prevention of deceptive practices" is an area where basing a standard on an international standard "may not be appropriate." *Id.* at § 2532(2)(B)(i)(II).

⁵⁶ 61 FR 27185 n.99 (May 30, 1996) (explaining that the Commerce standards were promulgated in 1933).

⁵⁷ See 15 C.F.R. Part 10.3 (setting forth the procedures for the development of VPS). The states/statutes adopted the VPS verbatim many years ago (*e.g.*, California in 1941; New York in 1965; Wisconsin in 1979). Even if the states conducted an independent deception analysis when they adopted these standards, it is likely that consumer perception regarding platinum representations and the marketplace has changed over time. Indeed, it does not appear that any platinum/base metal alloy jewelry products marketed as platinum existed when the states

standards are technical industry standards developed through a consensus-building process.⁵⁸ Accordingly, although harmonization with state laws and international standards is typically favored, where, as here, our analysis of consumer perception data reveals that there is insufficient evidence that a particular claim (*i.e.*, a qualified platinum representation) is deceptive, the Commission cannot promulgate a guide stating that marketers should not make the representation solely to achieve harmony.

IV. Proposed Amendment to Platinum Section of the Jewelry Guides

A. Proposed Amendment

Based on the analysis above, the Commission seeks comment on a proposed amendment to Section 23.7(b) of the Jewelry Guides. The proposed amendment would allow marketers to physically mark or stamp platinum/base metal alloy jewelry with a standard platinum jewelry marking that lists the product's chemical composition (*e.g.*, 585 Pt./415 Co.Cu.), but also states that when making any other representation that the product contains platinum they should disclose additional information. This proposed amendment states that, to avoid misleading consumers, marketers should clearly and conspicuously disclose, immediately following the name or description of the product: (i) that the product contains platinum and

adopted these standards. In addition, these state statutes already conflict with the current platinum Guides. The Commission revised the Guides in 1997 to harmonize the treatment of platinum products containing 850, 900, or 950 ppt pure platinum with the ISO standard and to simplify the Commission's guidance for products containing less than 850 ppt, but more than 500 ppt, pure platinum and 950 ppt PGM. The state statutes mirror the FTC's pre-1997 Guides for these categories of platinum products. For example, the state statutes provide that products containing at least 750 ppt, but less than 950 ppt pure platinum (with solder; 985 ppt without solder) and 950 ppt PGM, may be marked platinum provided the name or abbreviation of the other PGM that predominates precedes the word platinum (*e.g.*, Irid-Plat.). See, *e.g.*, N.Y. Gen. Bus. Law § 234(b). Consistent with the ISO standard, the current Guides provide that products containing 850 ppt or more pure platinum may be "platinum" provided the name or abbreviation is preceded with the amount in ppt of the platinum in the product. For products containing at least 750 ppt, but less than 850 ppt, pure platinum and 950 ppt other PGM, the Guides provide that marketers should disclose both the amount in ppt of pure platinum in the product and other PGM. 16 C.F.R. §§ 23.7(c)(3-4).

⁵⁸ See www.iso.org/iso/standards_development/process_and_procedures/how_are_standards_developed.htm (explaining that ISO standards are developed through a consensus-building phase that takes into account the views of manufacturers, vendors and users, consumer groups, testing laboratories, engineering professionals, and research organizations).

other non-platinum group metals;⁵⁹ (ii) the product's full composition, by name and not abbreviation, and the percentage of each metal;⁶⁰ and (iii) that the product may not have the same attributes or properties as products containing at least 850 ppt pure platinum, or at least 500 ppt pure platinum and at least 950 ppt PGM.⁶¹

As noted above, the record indicates that a substantial percentage of consumers believe products described as "platinum" are pure. The first proposed disclosure will inform consumers directly that the product is not pure. In addition, by stating that marketers should include the full name, not the abbreviation, of each metal, the second disclosure will alleviate consumer confusion regarding numerical, abbreviated descriptions of jewelry content. The third proposed disclosure is designed to avert deception regarding quality information conveyed by the term platinum that the record demonstrates likely will not be addressed by a content disclosure alone.

However, because some platinum/base alloy products may possess all the attributes or qualities of platinum jewelry that are important to consumers, the proposed amendment contains an additional provision. That provision provides that a marketer does not need to make this third disclosure if the marketer has competent and reliable scientific evidence that, with respect to all attributes or properties material to consumers (e.g., the product's

durability, hypoallergenicity, resistance to tarnishing and scratching, and the ability to resize or repair the product), such product is equivalent to products containing at least 850 ppt pure platinum, or at least 500 ppt pure platinum and at least 950 ppt PGM.

The proposed amendment does not contain a definitive listing of the attributes or properties material to consumers, nor does it specify the type of scientific substantiation necessary to avoid making the disclosure. Because the attributes or properties material to consumers and the nature of the substantiation may change over time, the Commission believes that flexible guidance is appropriate and that members of the jewelry industry are well-positioned to comply with such guidance. The Commission seeks comment on whether such guidance is sufficiently precise for marketers to avoid deceiving consumers regarding platinum/base metal alloys.

B. Text of the Proposed Amendment

The Commission proposes adding Section 23.7(b)(4) to the Jewelry Guides as an additional example of markings or descriptions of platinum that may be misleading.

The text of the proposed amendment of Section 23.7(b)(4) is as follows:

(4) Use of the word "Platinum," or any abbreviation accompanied by a number or percentage indicating the parts per thousand of pure Platinum contained in the product, to describe all or part of an industry product that contains at least 500 parts per thousand, but less than 850 parts per thousand, pure Platinum, and does not contain at least 950 parts per thousand PGM (for example, "585 Plat.") without a clear and conspicuous disclosure, immediately following the name or description of such product:

- (i) that the product contains Platinum and other non-platinum group metals;
- (ii) the full composition of the product (by name and not abbreviation) and percentage of each metal; and
- (iii) that the product may not have the same attributes or properties as products containing at least 850 parts per thousand pure Platinum, or at least 500 parts per thousand pure Platinum and at least 950 parts per thousand PGM.

Provided, however, that the marketer need not make disclosure 23.7(b)(4)(iii), above, if the marketer has competent and reliable scientific evidence that, with respect to all attributes or properties material to consumers (e.g., the product's durability, hypoallergenicity, resistance to

tarnishing and scratching, and the ability to resize or repair the product), such product is equivalent to products containing at least 850 parts per thousand pure Platinum, or at least 500 parts per thousand pure Platinum and at least 950 parts per thousand PGM.

Provided, further, a product that contains at least 500 parts per thousand, but less than 850 parts per thousand, pure Platinum, and does not contain at least 950 parts per thousand PGM, may be marked or stamped accurately, with a quality marking on the article, using parts per thousand and standard chemical abbreviations (e.g., 585 Pt., 415 Co.Cu.).

Note to § 23.7(b)(4): When using percentages to qualify platinum representations, marketers should convert the amount in parts per thousand to a percentage that is accurate to the first decimal place (e.g., 58.5% Platinum, 41.5% Copper/Cobalt).

V. Request for Public Comment

The Commission seeks public comment on a proposed amendment to the platinum section of the Jewelry Guides that provides guidance on how to mark or describe non-deceptively products that contain at least 500 ppt, but less than 850 ppt, pure platinum, and that do not contain at least 950 parts per thousand PGM. In addition, the Commission seeks public comment on whether it should revise the Guides to provide guidance on how to mark or describe platinum-clad, filled, plated, or overlay products.⁶²

The Commission requests written responses to any or all of the following questions. The Commission requests that responses be as specific as possible, including a reference to the question being answered, and a reference to empirical data or other evidence wherever available and appropriate.

1. Should the Commission amend the platinum section of the Jewelry Guides by adopting the proposed amendment?
 - a. If so, why? Please provide any evidence that supports your answer.
 - b. If not, why not? Please provide any evidence that supports your answer.
2. Should the Commission revise the language in the proposed amendment to provide for additional disclosures to ensure that consumers are not misled, for example, by including additional, more detailed disclosures regarding how products that contain at least 500 ppt, but less than 850 ppt, pure platinum, and that do not contain at least 950 parts per thousand PGM, differ from

⁶² See 16 CFR 23.4 and 23.6 (addressing gold-plated, gold-filled, gold-overlay, gold-electroplated, and silver-plated jewelry products).

⁵⁹ The proposed Guide provides for this disclosure for products that contain at least 500 parts per thousand, but less than 850 parts per thousand, pure Platinum, and do not contain at least 950 parts per thousand PGM. As such the provision applies to platinum/base metal alloys but would also apply to a product that contains platinum, base metals, and other platinum group metals—e.g., 58.5% Platinum, 35% Copper/Cobalt, 10% Iridium. The second disclosure, providing for a full name compositional disclosure, would inform consumers of the presence of the other platinum group metals in the product. Nothing in the Guide, however, would prohibit marketers from also truthfully disclosing in this first disclosure that the product contains other platinum group metals (e.g., this product contains platinum, other platinum group metals and other non-platinum group metals).

⁶⁰ The proposed Guide provides that when using percentages to qualify platinum representations, marketers should convert the amount in parts per thousand to a percentage that is accurate to the first decimal place (e.g., 58.5% Platinum, 41.5% Copper/Cobalt).

⁶¹ By making the second of these disclosures, a marketer would not satisfy the requirements of the first disclosure. Specifically, a consumer who received the composition disclosure would only understand that the alloy contained non-platinum group metals if he or she knew which metals comprised that group. The record, however, while not specifically addressing this issue, tends to demonstrate that many consumers do not have a clear understanding of metal alloys. Therefore, the first and second disclosures are necessary.

traditional platinum products⁶³ in terms of purity and rarity?

a. If so, how and why?

b. What evidence supports making your proposed revision(s)? Please provide this evidence and explain why any such revision is necessary to ensure that consumers are not misled.

c. If not, why not? Please provide any evidence that supports your answer.

3. Should the Commission revise the language in the proposed amendment to state that the disclosures should be physically attached to the jewelry product?

a. If so, how and why?

b. What evidence supports making your proposed revision(s)? Please provide this evidence and explain why any such revision is necessary to ensure that consumers are not misled.

c. If not, why not? Please provide any evidence that supports your answer.

4. Should the Commission revise the language in the proposed amendment to provide that marketers need only make the third disclosure that the platinum/base metal alloy may not have the same attributes or properties as traditional platinum products, if they represent expressly or by implication that such product has one or more of the same attributes or properties as traditional platinum products (*i.e.*, a triggered disclosure)?

a. If so, how and why?

b. What evidence supports making your proposed revision(s)? Please provide this evidence and explain why any such revision is necessary to ensure that consumers are not misled.

c. Is there any evidence indicating that the disclosure of the product's full composition will sufficiently alert consumers to the differences between platinum/base metal alloys and traditional platinum products containing a higher percentage of platinum or other PGM? If so, please provide this evidence.

d. If not, why not? Please provide any evidence that supports your answer.

5. Is there a specific word or phrase that could be used to describe products that contain at least 500 ppt, but less than 850 ppt, pure platinum, and that do not contain at least 950 parts per thousand PGM, that would adequately convey that such products differ from traditional platinum products?

a. If so, please identify such word or phrase and provide evidence demonstrating that it adequately conveys the differences between the products.

b. Would the term "platinum alloy," if used to describe products that contain at least 500 ppt, but less than 850 ppt, pure platinum, and that do not contain at least 950 parts per thousand PGM, adequately convey that such products differ from traditional platinum products? Please provide any evidence that supports your answer.

c. Should the Commission revise the language in the proposed amendment to address the use of such a specific word or phrase to describe products that contain at least 500 ppt, but less than 850 ppt, pure platinum, and that do not contain at least 950 parts per thousand PGM?

(1) If so, how and why?

(2) What evidence supports making your proposed revision(s)? Please provide this evidence and explain why such language adequately conveys the differences between the products.

(3) If not, why not? Please provide any evidence that supports your answer.

6. What, if any, additional disclosures are necessary to explain that a product that contains at least 500 ppt, but less than 850 ppt, pure platinum, and that does not contain at least 950 parts per thousand PGM, may not have the same attributes as traditional platinum products?

a. Should the Commission revise the language in the proposed amendment to require any such additional disclosures? How and why?

b. What evidence supports making your proposed revision(s)? Please provide this evidence.

c. If such disclosures are necessary, please explain the manner and form in which marketers should make them to ensure that they are clear and conspicuous to consumers.

7. The proposed amendment provides that marketers disclose the full composition of the platinum/base metal alloy using full, unabbreviated names and the percentage of each metal. Other provisions in the platinum sections of the Jewelry Guides provide for compositional disclosures using parts per thousand. Will the use of percentages for this disclosure confuse consumers?

a. If so, please provide any evidence that supports your answer.

b. If evidence does indicate that percentage disclosures will confuse consumers because the other platinum sections use parts per thousand, is there other evidence that indicates that the benefits of a percentage disclosure will outweigh the confusion?

c. If not, why not? Please provide any evidence that supports your answer.

8. What evidence, not submitted in response to the Commission's earlier

request for comment, indicates what specific properties are important to consumers when purchasing a product marked or described as "platinum"? If there is such evidence, please provide this evidence.

9. Is there evidence indicating the meaning consumers take from qualified platinum markings using abbreviations and chemical symbols (*e.g.*, 585 Pt., 415 Co.Cu.)? If so, please provide this evidence.

10. Is there evidence indicating the meaning consumers take from qualified platinum markings using full-name compositional disclosures (*e.g.*, 58.5% Platinum, 41.5% Copper/Cobalt)? If so, please provide this evidence.

11. Is there evidence indicating whether consumers think that products that contain at least 500 ppt, but less than 850 ppt, pure platinum, and that do not contain at least 950 parts per thousand PGM, share the qualities, such as durability, luster, density, scratch and tarnish resistance, ability to resize or repair, and hypoallergenicity, that are associated with traditional platinum products? If so, please provide this evidence.

12. Is there evidence indicating what qualities consumers associate with non-platinum PGM products (products made with platinum group metals other than platinum, *e.g.*, palladium, iridium), such as durability, luster, density, scratch and tarnish resistance, ability to resize and repair, and hypoallergenicity, that are associated with traditional platinum products? If so, please provide this evidence.

13. What constitutes "competent and reliable scientific evidence" to substantiate representations regarding the qualities material to consumers, such as the durability, luster, density, scratch and tarnish resistance, ability to resize and repair, and hypoallergenicity of traditional platinum products and products that contain at least 500 ppt, but less than 850 ppt, pure platinum, and that do not contain at least 950 parts per thousand PGM? Please provide any evidence that supports your answer.

14. Describe in detail the scientific tests used to determine or substantiate representations regarding the qualities material to consumers, such as the durability, luster, density, scratch and tarnish resistance, ability to resize and repair, and hypoallergenicity, of traditional platinum products and products that contain at least 500 ppt, but less than 850 ppt, pure platinum, and that do not contain at least 950 parts per thousand PGM. Please provide any evidence that supports your answer.

15. Describe in detail any differences between alloys that contain at least 500

⁶³ "Traditional Platinum Products" referred to in these questions means products containing at least 850 ppt pure platinum, or at least 500 ppt pure platinum and at least 950 ppt total PGM.

ppt, but less than 850 ppt, pure platinum, and that do not contain at least 950 parts per thousand PGM, and traditional platinum products in terms of the qualities material to consumers, such as durability, luster, density, scratch and tarnish resistance, ability to resize and repair, and hypoallergenicity. Please explain the basis for your answer and provide evidence that supports your answer.

16. Is there evidence indicating what the terms "Karat Platinum," "Platifina," "Platinum V," and "Platinum 5" mean to consumers? If so, please provide this evidence.

17. Do consumers associate the terms "Karat Platinum," "Platifina," "Platinum V," and "Platinum 5" with the qualities, such as durability, luster, density, scratch and tarnish resistance, ability to resize and repair, and hypoallergenicity, that are associated with traditional platinum products? If so, please provide any evidence that supports your answer.

18. Is there evidence indicating what the phrase "other non-platinum group metals" means to consumers? If so, please provide this evidence.

19. Should the Commission amend the platinum section of the Jewelry Guides to address other products that contain platinum, such as platinum-clad, filled, plated, coated, or overlay products, that are not currently addressed in the section?

a. If so, how and why?

b. What evidence supports making your proposed revision(s)? Please provide this evidence and explain why any such revision is necessary to ensure that consumers are not misled including specific guidance as to the recommended thickness of the filling, plating, or overlay of such platinum products.

c. If not, why not?

VI. Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record. See 16 CFR 1.26(b)(4).

All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before May 27, 2008.

By direction of the Commission.

Donald S. Clark

Secretary

[FR Doc. E8-3594 Filed 2-25-08; 8:45 am]

BILLING CODE 6750-01-S

NATIONAL LABOR RELATIONS BOARD

29 CFR Parts 101 and 102

Joint Petitions for Certification Consenting to an Election

AGENCY: National Labor Relations Board (NLRB)

ACTION: Notice of Proposed Rulemaking.

SUMMARY: As part of its ongoing efforts to address the needs of employers, individuals, and labor organizations and to further the fundamental purposes of the National Labor Relations Act, the National Labor Relations Board (NLRB) is proposing to adopt a rule that would authorize a petition for a prompt NLRB election to be jointly filed by a labor organization and an employer. The following proposal is offered to provide initial focus for public comment. The public is nevertheless encouraged to suggest alternatives.

DATES: All written comments must be received on or before March 27, 2008.

ADDRESSES: All written comments should be sent to the Office of the Executive Secretary, National Labor Relations Board, 1099 14th Street, NW., Room 11600, Washington, DC 20570-0001. The comments should be filed in eight copies, double spaced on 8½-by-11 inch paper and shall be printed or otherwise legibly duplicated.

FOR FURTHER INFORMATION CONTACT:

Lester A. Heltzer, Executive Secretary, Telephone (202) 273-1067, e-mail address Lester.Heltzer@nlrb.gov.

SUPPLEMENTARY INFORMATION: Section 102.62 of the Board's Rules and Regulations currently provides three kinds of "consent" election procedures. Under § 102.62(a) and (b), the parties must stipulate with respect to jurisdictional facts, labor organization status, appropriate unit description, and classifications of employees included and excluded. The parties must also agree to the time, place, and other election details. Under § 102.62(a), the parties agree that post-election disputes will be resolved with finality by the Regional Director. Under § 102.62(b), post-election disputes are resolved pursuant to § 102.69 of the Board's Rules and Regulations, with the parties retaining the right to file exceptions or requests for review with the Board. Under § 102.62(c), the parties can agree to the conduct of an election with disputed pre-election and post-election matters to be resolved with finality by the Regional Director.

The current proposal for revision of the Board's Rules and Regulations would create a new, voluntary

procedure whereby a labor organization and an employer could file jointly a petition for certification consenting to an election. The petition will provide the date on which the parties have agreed for an election, not to exceed 28 days from the date of the filing of the petition, and the place and hours on which the parties have agreed for an election. In addition, the petition will provide a description of the bargaining unit that the parties claim to be appropriate, the payroll period for eligibility to vote in the election, and the full names and addresses of employees eligible to vote in the election. If the petition lacks any necessary information, the Regional Director will so advise the parties and request that the petition be corrected.

No showing of interest is required to be filed with the petition. If it appears to the Regional Director that the information provided on the petition is accurate and sufficient and that the bargaining unit description is appropriate on its face and not contrary to any statutory provision, the petition will be docketed. Within 3 days of the docketing of the petition, the Regional Director will advise the parties of his/her approval of their request for an election. The parties' agreement as to the date, place, and hours of the election will be approved by the Regional Director, absent extraordinary circumstances.

Also within 3 days of the docketing of the petition, the Regional Director will send to the employer official NLRB notices, informing employees that the joint petition for certification has been filed and specifying the date, place, and hours of the election. These notices must be posted by the employer in conspicuous places where notices to employees are customarily posted and must remain posted through the election. Failure to post these notices as required shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of § 102.69(a). In addition to these notices, the employer must also post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election, as required under § 103.20 of the Board's Rules and Regulations.

Any motions to intervene may be filed with the Regional Director in accordance with § 102.65 of the Board's Rules and Regulations, except that any such motion must be filed within 14 days from the docketing of the petition. The Board's traditional intervention policies regarding levels of intervention and the intervenor's corresponding

rights to appear on the ballot, seek a different unit either in scope or composition, or insist on a hearing, will be applicable.

Unfair labor practice charges, including those alleging Section 8(a)(2) or Section 8(a)(5) violations of the National Labor Relations Act, will not serve to block the election or cause the ballots cast in the election to be impounded, but will be handled in conjunction with any post-election proceedings. All election and post-election matters will be resolved with finality by the Regional Director. Except as outlined above, the Board's traditional election rules and policies will apply, including those relating to withdrawal or dismissal of the petition.

Although the Agency has decided to give notice of proposed rulemaking with respect to these rule changes, the changes involve rules of agency organization, procedure, or practice and therefore no notice of proposed rulemaking is required under section 553 of the Administrative Procedure Act (5 U.S.C. 553). Accordingly, the Regulatory Flexibility Act (5 U.S.C. 601) does not apply to these rule changes.

List of Subjects in 29 CFR Parts 101 and 102

Administrative practice and procedure, Labor management relations.

For the reasons set forth above, the NLRB proposes to amend 29 CFR parts 101 and 102 as follows:

PART 101—STATEMENTS OF PROCEDURES

1. The authority citation for 29 CFR part 101 continues to read as follows:

Authority: Section 6 of the National Labor Relations Act, as amended (29 U.S.C. 151, 156), and sec. 55(a) of the Administrative Procedure Act (5 U.S.C. 552(a)). Section 101.14 also issued under sec. 2112(a)(1) of Pub. L. 100-236, 28 U.S.C. 2112(a)(1).

2. Section 101.17 is amended by adding a new second sentence and a new sentence to the end of the section to read as follows:

§ 101.17 Initiation of representation cases and petitions for clarification and amendment.

* * * In addition, a petition for certification consenting to an election may be filed jointly by a labor organization and an employer. * * * If a petition for certification consenting to an election is filed jointly by a labor organization and an employer, no evidence of representation is required to be filed.

3. Section 101.18(a) is amended by adding a new sentence at the end to read as follows:

§ 101.18 Investigation of petition.

(a) * * * In the case of a petition for certification consenting to an election filed jointly by a labor organization and an employer, the bargaining unit description, if appropriate on its face and not contrary to any statutory provision, will be deemed to constitute an appropriate unit and there will be no investigation of the evidence of representation, which is not required to be filed.

* * * * *

4. Section 101.19 is amended by adding a new sentence to the end of the introductory text and adding a new paragraph (d) to read as follows:

§ 101.19 Consent adjustments before formal hearing.

* * * In addition, the labor organization and the employer may consent to an election by means of filing a joint petition for certification, as provided for in § 102.60(b), § 102.61(c), and § 102.62(d).

* * * * *

(d) A petition for certification consenting to an election filed jointly by a labor organization and an employer is another method of informal adjustment of representation cases.

(1) The terms of the consent election, as specified on the petition, including the bargaining unit description, the payroll period to be used as a basis of eligibility to vote in the election, and the place, date, and hours of balloting, will be approved by the Regional Director, absent extraordinary circumstances, within 3 days of the docketing of the petition. Also within 3 days of the docketing of the petition, the Regional Director will send to the employer official NLRB notices, informing employees that the petition has been filed and specifying the date, place, and hours of the election. These notices must be posted by the employer in conspicuous places where notices to employees are customarily posted and must remain posted through the election.

(2) The election will be conducted under the supervision of the Regional Director in the manner already described in this section. The filing of an unfair labor practice charge will not serve to block the election or cause the ballots cast in the election to be impounded, but will be handled in conjunction with any post-election proceedings in accordance with § 102.69.

(3) All matters arising after the election, including determinative challenged ballots and objections to the conduct of the election shall be

processed in a manner consistent with paragraphs (a) (4), (5), and (6) of this section.

5. Section § 102.60 is amended by adding a new second sentence to paragraph (a), redesignating paragraph (b) as (c), and adding a new paragraph (b) to read as follows:

§ 102.60 Petitions.

(a) * * * A petition may also be filed jointly by a labor organization and an employer (see paragraph (b) of this section). * * *

(b) *Joint petition for certification consenting to an election; who may file; where to file; withdrawal.*—A petition for certification consenting to an election may be filed jointly by a labor organization and an employer. Where applicable, the same procedures set forth in paragraph (a) of this section shall be followed.

6. Section 102.61 is amended by redesignating paragraphs (c) through (e) as (d) through (f) and adding a new paragraph (c) to read as follows:

§ 102.61 Contents of petition for certification; contents of petition for decertification; contents of petition for clarification of bargaining unit; contents of petition for amendment of certification.

* * * * *

(c) A petition for certification consenting to an election, when filed jointly by a labor organization and an employer, shall contain the following:

- (1) The name of the employer.
- (2) The address of the establishment involved.
- (3) The general nature of the employer's business.
- (4) Commerce information establishing that the employer's operations affect commerce within the meaning of the Act.
- (5) The name, the affiliation, if any, and the address of the labor organization.

(6) A description of the bargaining unit that the parties claim to be appropriate.

(7) The number of employees in the alleged appropriate unit.

(8) The date on which the parties have agreed for an election, not to exceed 28 days from the date of the filing of the petition.

(9) The place and hours on which the parties have agreed for an election.

(10) The payroll period for eligibility to vote in the election.

(11) The full names and addresses of employees eligible to vote in the election.

(12) Any other relevant facts.

* * * * *

7. Section 102.62 is amended by adding a new paragraph (d) to read as follows:

§ 102.62 Consent-election agreements.

* * * * *

(d) Where a petition for certification consenting to an election has been duly filed jointly by a labor organization and an employer pursuant to § 102.60(b) and 102.61(c), and it appears to the Regional Director that the information provided on the petition is accurate and sufficient and that the bargaining unit description is appropriate on its face and not contrary to any statutory provision, the petition will be docketed. Within 3 days of the docketing of the petition, the Regional Director will advise the parties of his/her approval of their request for an election. The parties' agreement as to the date, place, and hours of the election will be approved by the Regional Director, absent extraordinary circumstances. Also within 3 days of the docketing of the petition, the Regional Director will send to the employer official NLRB notices, informing employees that the joint petition for certification has been filed and specifying the date, place, and hours of the election. These notices must be posted by the employer in conspicuous places where notices to employees are customarily posted and must remain posted through the election. Failure to post these notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of § 102.69(a). In addition to these notices, the employer must also post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election, as required under § 103.20. Any motions to intervene may be filed with the Regional Director in accordance with § 102.65, except that any such motion must be filed within 14 days from the docketing of the petition. The filing of an unfair labor practice charge will not serve to block the election or cause the ballots cast in the election to be impounded, but will be handled in conjunction with any post-election proceedings in accordance with § 102.69. The election shall be conducted under the direction and supervision of the Regional Director. The method of conducting the election shall be consistent with the method followed by the Regional Director in conducting elections pursuant to § 102.69 and 102.70 except that the rulings and determinations by the Regional Director of the results thereof shall be final, and the Regional Director shall issue to the parties a

certification of the results of the election, including certifications of representative where appropriate, with the same force and effect as if issued by the Board, provided further that rulings or determinations by the Regional Director in respect to any amendment of such certification shall also be final.

Dated: Washington, DC, February 11, 2008.

By direction of the Board.

Lester A. Heltzer,

Executive Secretary.

[FR Doc. E8-2767 Filed 2-25-08; 8:45 am]

BILLING CODE 7545-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2007-1068; FRL-8531-9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Section 110(a)(1) 8-Hour Ozone Maintenance Plan for the White Top Mountain, Smyth County, VA 1-Hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision pertains to a 10-year maintenance plan for the White Top Mountain 1-hour ozone nonattainment area located in Smyth County, Virginia. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before March 27, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2007-1068 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* fernandez.cristina@epa.gov.

C. *Mail:* EPA-R03-OAR-2007-1068, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2007-

1068. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the 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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814-2166, or by e-mail at shandruk.irene@epa.gov.

SUPPLEMENTARY INFORMATION: On August 6, 2007, the Virginia Department of Environmental Quality (VADEQ) submitted a revision to its (SIP) for

approval of the section 110(a)(1) 8-hour ozone maintenance plan for White Top Mountain, Smyth County, Virginia.

I. Background

Section 110(a)(1) of the Clean Air Act (CAA or Act) requires that areas that were either nonattainment or attainment/unclassifiable with an approved 175A maintenance plan for the 1-hour ozone National Ambient Air Quality Standard (NAAQS), and attainment for the 8-hour ozone NAAQS submit a plan to demonstrate the continued maintenance of the 8-hour ozone NAAQS. These plans were due to EPA on June 15, 2007, three years after the effective date of the initial 8-hour ozone designations.

On May 20, 2005, EPA issued the Maintenance Plan Guidance Document for Certain 8-Hour Ozone Areas Under section 110(a)(1) of the Clean Air Act. The purpose of the guidance is to assist the states in the development of a SIP which addresses the maintenance requirements found in section 110(a)(1) of the CAA. There are five components of the section 110(a)(1) maintenance plan which are: (1) An attainment inventory, which is based on actual typical summer day emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) for a ten-year period from a base year as chosen by the state; (2) a maintenance demonstration which shows how the area will remain in compliance with the 8-hour ozone standard for 10 years after the effective date of designations (June 15, 2004); (3) a commitment to continue to operate air quality monitors; (4) a contingency plan that will ensure that a violation of the 8-hour ozone NAAQS is promptly addressed; and (5) an explanation of how the State will track the progress of the maintenance plan.

II. Summary of SIP Revision

The Virginia Department of Environmental Quality (VADEQ) 8-hour ozone maintenance plan addresses the components of the section 110(a)(1) 8-hour ozone maintenance plan as outlined in EPA's May 20, 2005 guidance. Virginia has requested approval of a revision consisting of a 10-year maintenance plan under section 110(a)(1) for the White Top Mountain 1-hour ozone nonattainment area located in Smyth County, Virginia.

VADEQ addressed the section 110(a)(1) guidance components as follows:

Emissions Inventory: VADEQ provided an explanation describing that White Top Mountain has no anthropogenic emissions, and since the guidance document states that

projecting emissions and demonstrating maintenance for 10 years is not required for areas where there are essentially no anthropogenic emissions, emissions projections are not necessary, and thereby, not included in this maintenance plan.

Maintenance Demonstration and Tracking Progress: The demonstration should show how the area will remain in compliance with the 8-hour ozone standard for 10 years following the base year following the effective date of designation (June 15, 2004). This is usually accomplished by a demonstration that the area will have emissions that are equal to or below the emissions inventories of VOC and NO_x for this 10-year period. Since White Top Mountain has no anthropogenic emissions, and since the guidance indicates that a maintenance demonstration is not necessary for areas with essentially no anthropogenic emissions, a maintenance demonstration has not been included in this maintenance plan.

Ambient Air Quality Monitoring: The state should continue to operate air quality monitors in accordance with 40 CFR Part 58 to verify maintenance of the 8-hour ozone standard. Virginia, however, has never operated monitors on White Top Mountain. All of the monitors at this site were part of studies either managed by the Tennessee Valley Authority or EPA's Office of Research and Development, but these monitoring studies have ceased since 1999. Virginia does not have any monitors in place to operate nor does the Commonwealth plan on establishing a monitoring site. This is so for reasons which include the following: (1) There are no anthropogenic emissions at this site, (2) the very remote location of this nonattainment area, and (3) establishing a monitoring site would be cost-prohibitive.

Contingency Measures: The guidance indicates that most areas must develop a contingency plan that will ensure any violation of the 8-hour ozone NAAQS is promptly corrected. The guidance also states that for areas that have essentially no anthropogenic emissions, having a maintenance plan with contingency measures would be an "absurd" outcome. Therefore, contingency measures are not necessary, and thereby, not included in this maintenance plan.

Verification of Continued Attainment: Since emissions projections depend on assumptions of point, area, and mobile sources emissions, the guidance indicates that the state should indicate how it will track the progress of the maintenance plan. However, since the

guidance specifically notes that emissions inventories and contingency measures are not necessary for areas where there are essentially no anthropogenic emissions, verification of these requirements is also not necessary, and therefore, not included in the maintenance plan.

The VADEQ is requesting approval of their SIP revision which consists of a 10-year maintenance plan under section 110(a)(1) for the White Top Mountain 1-hour ozone nonattainment area located in Smyth County, Virginia.

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) "privilege" for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1-1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1-1198, precludes granting a privilege to documents and information "required by law," including documents and information "required by Federal law to maintain program delegation, authorization or approval," since Virginia must "enforce Federally authorized environmental programs in a manner that is no less

stringent than their Federal counterparts. * * *". The opinion concludes that "[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval."

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that "[t]o the extent consistent with requirements imposed by Federal law," any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since "no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity."

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

IV. Proposed Action

EPA's review of this material indicates that Virginia has addressed the components of a maintenance plan pursuant to EPA's May 20, 2005 guidance. EPA is proposing to approve the Virginia SIP revision for White Top Mountain, Smyth County, Virginia, which was submitted on August 6, 2007. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be

inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the (Attorney General's) Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings(issued under the executive order.

This action proposing approval of Virginia's SIP revision request consisting of a 10-year maintenance plan under § 110(a)(1) for the White Top Mountain 1-hour ozone nonattainment area located in Smyth County, Virginia 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 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: February 12, 2008.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E8–3358 Filed 2–25–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2007–0646; FRL–8526–9]

Approval and Promulgation of State Implementation Plans; Montana; Interstate Transport of Pollution, New Definitions of PM and PM_{2.5}

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP)

revisions submitted by the State of Montana on June 28, 2000 and April 16, 2007. The revisions update Administrative Rules of Montana (ARM) provisions for Particulate Matter, and address Interstate Transport Pollution requirements of section 110(a)(2)(D)(i) of the Clean Air Act. On June 28, 2000, the Governor of Montana submitted revisions to ARM rules 17.8.101—Definitions; 17.8.308—Particulate Matter, Airborne; and 17.8.320—Wood Waste Burners. The June 28, 2000 submittal included also a declaration certifying the adequacy of the State SIP in regard to the infrastructure-related PM_{2.5} elements of section 110 of the Clean Air Act (CAA). In the April 16, 2007 submission, the Governor requested EPA's review and approval of the "Interstate Transport Rule Declaration" adopted into the Montana SIP on February 12, 2007. In that same letter, the Governor rescinded the State's earlier request for approval of Montana's SIP in regard to the infrastructure-related PM_{2.5} elements of section 110 of the CAA. In light of this rescission, EPA is not taking action on this declaration. This action is being proposed under section 110 of the Clean Air Act.

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a non-controversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives an adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Written comments must be received on or before March 27, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2007-0646, by one of the following methods:

- <http://www.regulations.gov>. Follow the on line instructions for submitting comments.

- E-mail: videtich.callie@epa.gov and mastrangelo.domenico@epa.gov.

- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- Mail: Callie Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129.

- Hand Delivery: Callie Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Please see the direct final rule, which is located in the Rules Section of this **Federal Register**, for detailed instruction on how to submit comments.

FOR FURTHER INFORMATION CONTACT:

Domenico Mastrangelo, Air and Radiation Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129, (303) 312-6436, mastrangelo.domenico@epa.gov.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title, which is located in the Rules and Regulations section of this **Federal Register**.

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

Dated: January 29, 2008.

Carol Rushin,

Acting Regional Administrator, Region 8.

[FR Doc. E8-3339 Filed 2-25-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 262, 263, 264, 265, and 271

[EPA-HQ-RCRA-2001-0032; FRL-8534-1]

RIN 2050-AG20

Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability and request for comment.

SUMMARY: This notice announces the availability of additional information on

the electronic manifest (e-Manifest) project. Specifically, EPA's Office of Solid Waste and Emergency Response (OSWER) has made significant progress on the e-Manifest project since the publication of the April 18, 2006 public notice, which announced and requested comment on our intention to develop a centralized web-based information technology (IT) system that would be hosted on EPA's IT architecture. However, a few issues raised by commenters in response to the April 2006 public notice require further analysis on our part, as we make decisions concerning the e-Manifest system.

We received strong support in response to the April 2006 public notice to establish a national web-based system funded through user-fees. In addition, commenters generally supported our position that use of e-Manifests should be at the election of the users rather than mandatory. However, some commenters expressed concern that an optional system would create dual paper and electronic systems. Furthermore, industry and state comments in response to our position to allow confidential business information (CBI) claims for e-Manifests differed. Therefore, as explained in this notice, we are soliciting additional comment on EPA's position on these two issues. We remain committed to finalizing a federal regulation, once the necessary legislation is enacted, that will authorize the regulated community to use electronic manifests as the legal equivalent of paper manifests, and will consider the comments received on this notice, as well as other comments received from previous actions, before we make a final decision.

DATES: Comments must be received on or before April 11, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-RCRA-2001-0032 by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.

- E-mail: Comments may be sent by electronic mail to: rcra-docket@epa.gov, Attention Docket ID No. EPA-HQ-RCRA-2001-0032.

- Fax: Comments may be faxed to 202-566-0272, Attention Docket ID No. EPA-HQ-RCRA-2001-0032.

- Mail: Comments may be sent to Environmental Protection Agency, EPA Docket Center (EPA/DC), Resource Conservation and Recovery Act (RCRA) Docket, 5305T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-

RCRA-2001-0032. Please include a total of two copies.

• *Hand Delivery:* Comments may be hand-delivered to the Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA-HQ-RCRA-2001-0032. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

Instructions: Direct your comments to Docket ID No. EPA-HQ-RCRA-2001-0032. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at

www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be captured automatically and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the RCRA Docket, EPA/DC, EPA West,

Room 3334, 1301 Constitution Ave., NW., Washington, DC. The 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 RCRA Docket is 202-566-0270. Copies cost \$0.15/page.

FOR FURTHER INFORMATION CONTACT: For further information regarding specific aspects of this document, contact Richard LaShier, Office of Solid Waste, (703) 308-8796, lashier.rich@epa.gov, or Bryan Groce, Office of Solid Waste, (703) 308-8750, groce.bryan@epa.gov. Mail inquiries may be directed to the Office of Solid Waste (OSW), (5304W), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Rule Apply to Me?

This rule could affect up to 223,000 entities in upwards of 600 industries involved in shipping approximately 12 million tons of RCRA hazardous wastes annually, using 5.0 million EPA Uniform Hazardous Waste Manifests (EPA Form 8700-22 and continuation sheets EPA Form 8700-22A). These entities consist of about 15,000 RCRA large quantity generator (LQG) waste shippers, plus about 146,000 RCRA small quantity generator (SQG) waste shippers, plus about 350 waste transporters, plus about 1,500 waste receiving treatment, storage, disposal facilities (TSDFs), plus 60,000 conditionally-exempt small quantity generators (CESQGs),¹ plus 23 state governments known to collect paper manifests as of 2004.² If you have any

¹ CESQGs are exempt from Federal RCRA hazardous waste manifesting regulations, but at least one state (CA) requires RCRA CESQGs to use the EPA manifest for hazardous waste shipments. We have included state-regulated CESQGs in the count of possible affected entities for this notice in order to provide a complete economic impact estimate, not just a narrower Federal waste impact estimate, because the operational scope of our planned e-manifest system will encompass manifest processing for state-regulated waste shipments, not just Federal-regulated hazardous waste shipments.

² As surveyed in 2004 with 49 states providing responses, 23 state governments currently collect completed paper manifests (source: "Analysis of Site Identification Questionnaire Collected in June and July of 2004", August 23, 2004, compiled by Paula Canter, Ohio EPA Division of Hazardous Waste Management, for the Association of State & Territorial Solid Waste Management Officials). The Michigan Department of Environmental Quality surveyed state government agencies on this question in January 2007, but only received 29 responses, so the older but more comprehensive 2004 survey is cited here. EPA estimates that these 23 states account for 0.74 million (35%) of the 2.14 million Federally-regulated hazardous waste paper manifests per year, and 0.89 million (32%) of the

questions regarding the applicability of this rule to a particular entity, consult the people listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit CBI information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR Part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible.
- Make sure to submit your comments by the comment period deadline identified.

The contents of this notice are listed in the following outline:

- I. Background of E-Manifest System
- II. Final Rulemaking Efforts
 - A. Submission requirements to system for paper manifest copies

2.82 million state-regulated waste manifests collected per year, representing a total 1.63 million (33%) of the 4.96 million total paper manifests completed per year (based on extrapolation from the 2005 Federal hazardous waste shipment tonnage reported in EPA's 2005 RCRA Hazardous Waste Biennial Report).

- B. Public access to electronic manifests and CBI claims for manifest data
 III. Request for Comments

I. Background of E-Manifest System

On May 22, 2001, EPA published a notice of proposed rulemaking (NPRM) that proposed several major revisions to the hazardous waste manifest system, including proposed revisions aimed at adopting an electronic manifesting approach that would allow waste shipments to be tracked electronically, thereby mitigating the burdens and inefficiencies associated with the use of paper manifest forms (66 FR 28240).

Although comments generally supported an electronic tracking scheme, several significant issues were raised that necessitated further analysis and stakeholder outreach prior to adopting a final e-Manifest regulation. As a result, EPA held a two-day public meeting on May 19–20, 2004, to discuss and obtain public input on how best to proceed with selecting and implementing the future direction of the e-Manifest. We heard from both the hazardous waste management industry and state government attendees at the public meeting that there is a strong consensus (a) in favor of establishing a nationally centralized e-Manifest system that would consistently and securely generate and process electronic manifests, and (b) that system users would be willing to pay reasonable service fees to fund the development and annual operation of the system. The full proceedings for the May 2004 public meeting have been posted on our EPA Web site at <http://www.epa.gov/epaoswer/hazwaste/gener/manifest/e-man.htm>.

On April 18, 2006, we published a Notice of Data Availability (NODA) to request comment on our preferred approach for electronically completing and transmitting manifests through a national, centralized e-Manifest system that would be established and maintained through user-fees. Comments strongly supported EPA's suggested approach, but also raised a few issues about which we are seeking further comment. Specifically, waste management industry commenters questioned whether the resulting dual paper and centralized e-Manifest system would generate complexity and burden that would frustrate the transition to electronic manifests and thus, undermine the paperwork burden cost savings goal for the e-Manifest. State agency comments indicated that their support for electronic manifesting was contingent upon there being a means to ensure that a complete national set of manifest data would be established,

including data from both electronic manifests and any remaining paper manifests each year. According to these commenters, a centralized system that did not also contain the data from paper manifests would not present a complete picture of all RCRA and state regulated hazardous wastes. Consequently, such a system could result in some states having to maintain duplicative processes and systems to collect and track the data from the remaining paper forms. Thus, both industry and state commenters urged EPA to develop the final rule so as to lessen the effects of dual paper and electronic manifest systems.

The April 2006 notice also raised the issue of potential claims of CBI regarding the manifest data. Some state government commenters generally did not support CBI claims for manifest data and deemed manifests to be public records. Further, these commenters also indicated that their states have state legislation or policies which bar CBI claims with respect to manifests. On the other hand, comments from the waste management industry supported claiming manifest data as CBI. These commenters were especially interested in protecting customer information from being mined from electronic manifests by competitors. The industry members are concerned that the availability of this information electronically will enable competitors to obtain more immediate and efficient access to their customer information. Public access to paper manifests is currently limited by a number of factors: (a) EPA does not collect completed paper manifests, except for export and import manifests from transboundary waste shipments, so public access requests to the vast majority of completed paper manifests must be made to state governments, (b) as of 2004, only 23 state governments collect completed paper manifests representing only about one-third of the 5.0 million national manifests annually; and (c) although EPA's RCRA Hazardous Waste Biennial Report provides national hazardous waste shipment and waste receipt data which reveals EPA ID numbers, company names and addresses for waste shippers and waste receivers, the lag-time for public access to the Biennial Report data is at least one year³ after any given data reporting year.

³ EPA's published schedule for data reporting and report implementation milestones for the 2007 RCRA Hazardous Waste Biennial Report, is for completion of the 2007 data year report by December 2008, which represents exactly a one-year lag-time between public access (i.e., data availability over the internet) and the data year (2007); the 2007 Biennial Report schedule is

II. Final Rulemaking Efforts

We are currently developing the final rule that will authorize the use of electronic manifests, and will address scope and other policy issues. However, the promulgation of this rule is contingent upon the enactment of legislation providing EPA the authority to collect user-fees to fund the development and operation of the system. Nevertheless, we continue to move forward with the rulemaking in anticipation of enactment of the needed legislation.

Based on the comments received in response to the April 2006 public notice regarding the merits of an optional electronic manifest approach and the CBI issue, we are announcing and requesting comment on our preferred approaches for addressing submissions of paper-based manifests to the electronic manifest system and for addressing CBI claims for manifest data. These approaches are discussed below.

A. Submission Requirements to System for Paper Manifest Copies

EPA agrees with waste management industry and state government commenters' concern that it would not be efficient to have an electronic manifest system collecting data only from electronic manifests, while another paper-based system addresses the data only from paper manifests. Therefore, we believe that the system being designed should be a unified system for processing and distributing data from all manifests, including data from paper manifests. We considered several options aimed at simplifying the process for collecting paper forms and at ensuring that the data collected from both electronic manifests and paper forms could be efficiently processed so that a comprehensive set of manifest data would be available to users and regulators. We have identified a preferred approach that we believe provides the most efficient solution to the dual paper/electronic systems problem.

Under our preferred approach, the final destination facility (i.e., designated final TSDF), for each hazardous waste shipment involving a paper manifest, would be required to submit the top copy (i.e., Page 1 of the 6-page set) of the paper manifest form to the e-Manifest system operator within 30 days of receipt of the waste shipment. While the

published at <http://www.epa.gov/epaoswer/hazwaste/data/biennialreport/index.htm>. However, the December 2008 scheduled completion of the 2007 Biennial Report database represents a three-year lag period relative to the prior biennial data year 2005.

e-Manifest system is not yet designed, we envision that the designated facility could mail a copy to the e-Manifest system operator or could transmit an image file to the EPA system so that the e-Manifest system operator could key in the data from the paper copies or image files to the data system. Alternatively, the designated facility could submit both the image file and a file presenting the manifest data to the system in image file and data file formats acceptable to the e-Manifest system operator and supported by the Central Data Exchange (CDX). For paper copies mailed to the system by designated facilities, the e-Manifest system operator would create or obtain an image file of each such manifest, and store it on the system for retrieval by state or federal regulators. The e-Manifest system operator also would key in, electronically scan using an optical character recognition (OCR) device, or otherwise transfer the federal- and state-regulated waste data from these paper copies to the e-Manifest system. By having all manifest data in electronic form, EPA could extract any data regarding RCRA hazardous wastes for inclusion in its data systems, while the states could pull off data from the system concerning both federally regulated RCRA and state-regulated wastes for processing in the states' own tracking systems.

We envision that designated facilities would be required to pay a fee to the system operator for processing the data from these final copies of the paper forms, and the fee would presumably vary with the type of submission (mailed copy, image file, or image plus data file), as these submission types would likely present a different level of effort insofar as the processing steps required to enter the form data into the system. It is likely that the fee paid by the designated facility would be passed on to the generator (*i.e.*, the designated facility's customer). We estimate that the paperwork burden cost to TSDFs for submitting a copy of the final manifest could be \$1.95 per paper manifest, for an incremental (*i.e.*, over current baseline) annual cost to TSDFs of between \$1.6 million and \$6.5 million per year. In addition, we estimate the possible fee that EPA's e-Manifest system operator (or other EPA-designated e-Manifest affiliate) might charge TSDFs for receiving paper manifests and for transferring (*i.e.*, imaging and keypunching) paper manifest data to the e-Manifest system, could be between \$0.25 to \$0.75 per paper manifest, for an incremental (*i.e.*, over current baseline) annual cost to TSDFs of between \$0.2 million and \$2.9

million. On a combined basis, we estimate these two components of paper manifest processing incremental costs to TSDFs could total between \$1.8 million and \$9.4 million annually, representing an average incremental cost to TSDFs of \$2.20 to \$2.70 per paper manifest. We invite public comment on our approach and the cost estimates.

We believe such an approach simplifies manifest copy submissions for the regulated TSDFs, who in the future would only need to provide designated facility copies to one location—the national centralized e-Manifest system—rather than supply copies to the numerous state agencies that now collect a copy of the final manifest. Further, it focuses the federal collection effort on a copy of the final paper manifest forms from the designated facilities, which provide the best accounting of the quantities and types of hazardous wastes that were actually received for management. We believe that providing a means to collect a complete set of hazardous waste receipts data from RCRA TSDFs (the merged set of paper and electronic manifest data), also may in the future provide EPA with the means to replace biennial reporting by TSDFs of waste receipts data with a much simpler approach that relies upon the designated facility data reported to the e-Manifest system.⁴

We also believe that there are a number of benefits of this approach to state programs. As states are connected to the e-Manifest system through EPA's National Environmental Information Exchange Network, they would be able to pull off the image files and the data keyed from paper manifests from this central processing service, just as they would be able to obtain the data and presentations of electronic manifests from the eXtensible Markup Language (XML) schemas and stylesheets transmitted on the e-Manifest system. This national data system also presents a much more efficient approach that can eliminate the need for discrete state systems designed to capture manifest data.

In addition, as the e-Manifest system operator would be able to assess appropriate fees for the paper processing and data entry activities necessary to process the data from paper forms and enter them into the e-Manifest system, the actual costs of providing these services would be recovered by the system operator from

the designated facility. Since we expect that electronic manifests will be much more efficient to process than paper forms, the differential fees that are established for paper and electronic manifest processing likely would operate as an additional incentive for the transition to electronic manifests.

While we intend to clarify in the final rule that the use of the electronic manifest format would be optional for members of the regulated community, our preferred approach to collect a copy of the final paper manifest forms from designated facilities and to process the data from these paper forms centrally means that these designated facilities will be required to interact with the e-Manifest system (*i.e.*, submitting data either electronically or by mail and paying established fees). Thus, this NODA confirms our intention to have a single national hazardous waste database.

Facilities that elect to use the electronic manifest format would submit their manifest information electronically as a natural consequence of participating in the e-Manifest system. The e-Manifest system would be designed for the purpose of distributing electronic manifest data among the users and regulatory agencies, while the electronic manifest information is being obtained, processed, and transmitted electronically via the e-Manifest system. On the other hand, those facilities and hazardous waste handlers that choose to use the paper manifest forms or are presented with paper forms rather than electronic manifest formats, would need to process the paper manifest forms physically in the conventional manner that has been the norm since the uniform hazardous waste manifest form was introduced in 1984. However, in place of sending a copy of the final manifest directly to the destination state, the final rule would require the designated facility to send Copy 1 of the paper manifest form to EPA's e-Manifest system operator. Thus, the designated facilities would be required to submit a copy of the final manifest to the e-Manifest system, either in the supported electronic format or as a paper copy, and pay a fee for this service. In other words, the use of the electronic manifest format would be voluntary under the final rule, although the submission of either a completed paper or electronic manifest to the EPA system operator and payment of an associated fee in every case would be required of designated facilities. Once this requirement is effective, and all copies of the final manifest (electronic or paper) from designated facilities are being submitted directly to EPA's e-Manifest system

⁴ EPA intends to publish a notice and seek comment on potential changes to the Hazardous Waste Report (*i.e.*, Biennial Report) before any changes are made.

operator, the states would be able to obtain their copies of the final manifest and data from the e-Manifest system through their computer systems on the National Environmental Information Exchange Network. It is EPA's intent that the submission of the final paper manifest copy to the e-Manifest system would replace the requirement to supply paper manifests directly to the states. Since the states would have nodes in place on the Exchange Network for receiving manifest copies from the system, it would no longer be necessary for the states to require the direct submission of paper copies to the states. Thus, the paper copy submission requirement could replace the requirement for facilities to submit copies of the final manifest to the states. Note that the facilities that receive paper manifests will still need to retain a paper manifest copy among their own facility records for the 3-year record retention period in accordance with current requirements. We request comment on our recommendation to collect a copy of the final electronic and paper manifest forms from designated facilities and to process the data from these forms centrally.

B. Public Access to Electronic Manifests and CBI Claims for Manifest Data

1. *Individual Manifest Records and Commercial Confidentiality Concerns.* With the exception of export and import manifests from transboundary waste shipments, EPA previously has not generally collected hazardous waste manifests. While data from export or import manifests have been claimed as CBI in the past, since the adoption of the new hazardous waste manifest form (EPA Form 8700-22) and continuation sheet (EPA Form 8700-22A) (70 FR 10776 (March 4, 2005); 71 FR 19842, 19847 (April 18, 2006)), our records indicate that no CBI claims have been made at this time regarding any of the data contained in these manifests. Thus, until now, the Agency has not had a need to determine any national policy with respect to the eligibility of manifest data for CBI claims. Based on the information now available to EPA on this question, EPA has concluded that information contained in individual hazardous waste manifest records, including any individual electronic manifests that may be submitted and collected electronically through the e-Manifest system, is essentially public information and therefore is not eligible under federal law for treatment as CBI. The effect of this decision is that EPA would be making a categorical determination that it will not accept any CBI claims that might be asserted in the

future in connection with processing, using, or retaining individual paper or electronic manifests. This decision, we believe, should apply prospectively from the effective date of the e-Manifest final rule because the Agency has not previously announced this position and thus it would be unfair or inappropriate for the Agency to release such information, particularly for those companies that have previously made such a claim. Thus, it would not impact any CBI claims or any determinations made in the past by EPA in resolving manifest-related CBI claims. Our rationale is explained in the following paragraphs.

First, we believe that any CBI claim that might be asserted with respect to individual manifest records would be extremely difficult to sustain under the substantive CBI criteria. 40 CFR Part 2, Subpart B, and 40 CFR 260.2. As manifests are shared with several commercial entities while they are being processed and used, a business concerned with protecting its commercial information would find it exceedingly difficult to protect its individual manifest records from disclosure by all the other persons who come into contact with its manifests. For example, a business desiring to protect commercial information in the manifest context would need to enter into and enforce non-disclosure agreements or similar legal mechanisms with all its customers and other third parties and affected interests who might also be named as waste handlers on its manifests or who otherwise might be expected to come into contact with its manifests. Moreover, as many states now require the submission of generator and/or TSDF copies of manifests, and the data from these manifests are often made publicly available or reported in federal and state information systems, it seems apparent to EPA that much of the information that might be claimed now by industry commenters to be CBI is already available from a number of government and other legitimate sources. We have little information on whether states have withheld manifest or aggregate data, as the State surveys did not disclose any pattern of states withholding data. We do know, however, that California must withhold information in summary reports that links a customer and a transporter.⁵

⁵ Hazardous waste transporters that are authorized by CA to use CA's consolidated manifesting procedures must submit quarterly reports to the CA EPA Department of Toxic and Substances Control (DTSC). The consolidated manifesting procedures apply to non-RCRA/CA hazardous waste or to RCRA hazardous waste that is not subject to the federal manifest requirements.

Second, we are aware that some state programs have denied CBI treatment to data contained in manifest records.⁶ Some states disclose manifest records freely, and this has been the general practice among those states for more than 20 years. As far as EPA knows, free disclosure has been the common practice for dealing with data from manifest records among some states, and there have not been significant objections raised by members of industry to those states' disclosure practices. EPA is not persuaded that it should reverse this long-standing policy among those states by adopting a Federal policy that conflicts with the prevailing state laws and policies on this issue. We seek comment on other states' CBI treatment of manifest records and the data contained in them.

For these reasons, we believe that individual manifest records and data contained in them should not be subject to CBI claims since they are not entitled to protection as CBI in some states. This policy will apply to electronic and paper manifests, and to domestic and transboundary shipment manifests. While we intend to clarify in the final rule that individual manifest records would not be entitled to CBI protection, we also are considering limiting access to the preliminary/draft manifest data. Access would only be limited while the data are being collected and verified, as manifest data are processed and received by waste handlers, and exceptions or discrepancies are being resolved, in the system and before the manifest information is complete.

Specifically, the preparation and processing of a manifest is an iterative process that begins when the generator

The CA Health and Safety Code § 25160(d) prohibits the disclosure of the association between any specific transporter and specific generator. The list of generators served by a transporter is deemed to be trade secret and confidential business information for purposes of Section 25173 and Section 66260.2 of Title 22 of the California Code of Regulations.

⁶ In January of 2007, the MI state representative on EPA's E-Manifest Final Rule Work Group disseminated a survey on behalf of ASTSWMO, through the Hazardous Waste Program Operations Task Force, to interested states in order to request information about their state manifest requirements, including the requirements for public access/CBI to manifest records. Eight states responded on how they currently treat or might treat manifest data as CBI. Responses from the eight states are as follows: One state (NY) denies CBI treatment to manifest records; One state (OH) allows TSDFs to claim CBI on their annual waste report; Four states (ID, OR, SC, CT) do not give CBI treatment to manifest data reported on quarterly or annual reports; and Two states (FL, MI) indicate that they would not give manifest data CBI treatment. In addition, three states (MD, NJ, PA) that participated on the work group, but were not included in the survey indicated that their state would not treat manifest data as CBI.

fills out and signs the generator portion of the manifest; continues as transporters review and correct the generator-supplied information, fill in any additional transporter data fields, and then sign to acknowledge receipt of the shipment; and concludes when the receiving facility enters facility data, signs to acknowledge waste receipts, rejections, or discrepancies, and then verifies the final status of the shipment to the generator (and to many authorized states) by sending the generator and states the final verified copy.

EPA believes that it typically will take up to 60 days from the start of a shipment for all the iterative manifest processing and verification steps to be completed. As part of this process, the designated facility must report waste receipts to the generator of that waste within 30 days of receipt of the waste. 40 CFR 264.71(a)(2)(iv). Any significant discrepancies must be reported to the EPA Regional Administrator or the authorized state if the discrepancy is not resolved between the generator and designated facility within 15 days from the designated facility's receipt of the waste. 40 CFR 264.71(b)(4) and 264.72(c). In addition, the existing regulations provide that exceptions must be reported by generators to EPA or authorized states if 45 days have passed since delivery of the hazardous waste to the initial transporter, and the generator still has not received a copy of the final manifest signed by the designated facility. 40 CFR 262.42.

Therefore, during the time that waste shipments are en route to the receiving facilities, and during the period of time after delivery of the waste when manifest exceptions and discrepancies may be reported, we intend to limit access to incomplete and unverified manifest data to only the entities involved with a shipment (and to regulators and emergency responders). These are the entities that have a need to know about the manifest data being entered on an electronic manifest, while the shipment is en route, or while the manifest data is subject to review and correction—that is, during the time for verifying and reporting waste receipts, exceptions or discrepancies, and resolving the exceptions or discrepancies.

However, after this 60-day period has passed, such that the electronic manifests are considered complete and final for regulatory purposes, EPA intends to make all manifest records available upon request in accordance with the Federal Freedom of Information Act (FOIA), 5 U.S.C. 552. We emphasize that this suggested

limited restriction on access during the manifest creation process is intended to protect the integrity and security of the manifest data during the period of time that the electronic manifest is being processed and verified by the waste handlers that are involved with the management of the waste shipment.

EPA requests comment on our decision to categorically and prospectively exclude manifests from eligibility for CBI claims. In addition, the Agency believes that the FOIA exemption for personal privacy does not exempt from production the names of company employees or independent contractors that appear in the manifests. EPA requests public comment on this position. The Agency also requests comment on its proposed policy of limiting access to incomplete and unverified manifest information to the waste handlers named on particular manifests (as well as regulators and emergency responders), and allowing full disclosure of manifest information that has been completed and verified by the receiving facilities. As we discussed above, EPA believes that the period of limited access to preliminary manifest data should extend no longer than 60 days after the start of the waste shipment. However, we request comment on whether 60 days is appropriate, or whether commenters believe that another period of time is more appropriate.

2. Release of Aggregate Data and Competitive Harm Concerns. EPA understands that the waste management industry may be concerned that the aggregation of manifest records and data contained in them in one national electronic system may enable competitors to obtain more immediate and efficient access to their customer information, thus potentially creating competitive consequences not experienced under the current paper system.

Because EPA has not previously collected manifest records electronically, we have no quantifiable evidence at this time to suggest that the manifest data that would be stored in EPA's national system would somehow create or cause competitive harm to persons or companies that would submit data to the e-Manifest system, if that data were released in aggregated form upon a FOIA request. Since the individual manifest records would not be eligible for CBI treatment for the reasons discussed above, it is a novel issue for EPA whether requests under FOIA for data aggregated from multiple manifests would require special handling by EPA under the FOIA

exemption for confidential business information.

Therefore, EPA is seeking public comment on how, if at all, the e-Manifest system should address any future FOIA requests for aggregate manifest data. First, EPA needs information on how substantial the harm would be to a company's competitive position (particularly since we intend to defer the release of electronic manifest data to the general public for 60 days) if aggregate data from multiple manifests could be obtained from EPA under a FOIA request. How would this situation differ quantifiably from the current situation where a FOIA request can be made for multiple manifests and the requester must then aggregate the relevant data in each of these manifests for himself or herself? How different would the situation be from that which occurs now with paper manifests given that a member of the public may generally obtain any number of paper manifests from states under the states' current manifest collection and tracking programs? Also, even if EPA could offer additional protection to aggregate e-Manifest data, what would be the benefit since requesters can instead direct their requests for electronic manifest records to the states? The states will routinely receive electronic manifest records from the e-Manifest system in their capacity as RCRA regulators. However, these states would not be required to follow EPA's determinations under the exemption for CBI of the Federal FOIA and could instead choose or be required to release all electronic manifest data as public information under their state laws and procedures. Given our uncertainty about the adverse effects or competitive harm to waste management businesses that would submit manifests to the national e-Manifest system, we seek comment on whether the release of aggregated data would adversely impact waste management businesses. In particular, we ask that the waste management industry substantiate their concerns, if any, that the aggregation of manifest data and the subsequent disclosure of that data would somehow release their company's confidential business information and thus cause substantial competitive harm to them. We also request information on how the waste management industry protects their confidential business information recorded on manifests in states that currently make manifest data publicly available.

If EPA were to determine that the waste management industry concerns for the disclosure of aggregate

information are legitimate and that they are not sufficiently addressed by the approach described above in this NODA, then we could develop another approach to mitigate the ability to efficiently create customer lists from aggregated data. For instance, we could design the e-Manifest system to provide the aggregated data in a redacted form, protecting either the identity of the generator, transporter, or TSDF so that anyone who requests aggregated data could not generate customer business information from it. We therefore request comment on how EPA should design and implement an approach to protect the disclosure of aggregate data of competitive value, if such an approach were appropriate. For example, what are the indicators of aggregated requests (e.g., requests of 50 or more manifests involving a single transporter or TSDF) that would justify our handling aggregated data differently from individual manifests for FOIA disclosure purposes? What information should be redacted from the data that are released to mitigate any competitive harm from the data disclosure? How can this process be automated so that it can be effectively implemented in an electronic manifest system that must address potentially millions of manifest records annually, and their related FOIA requests, without significant human intervention?

III. Request for Comments

EPA requests comments on the policy issues discussed in this notice regarding our preferred approach that final copies of paper manifest records be submitted by designated facilities to EPA's e-Manifest system operator for data processing, and our categorical determination that individual or aggregate manifest data may not be claimed as CBI. The Agency also requests comment on various aspects of our proposed policy of limiting access to incomplete and unverified manifest information to the waste handlers named on particular manifests (as well as regulators and emergency responders).

EPA will consider the comments received pursuant to this notice, along with comments on the April 18, 2006 public notice, on the e-Manifest proposal in the May 2001 proposed rule, and the May 2004 Stakeholder meeting, as it prepares a final rule on the e-Manifest system.

Dated: February 19, 2008.

Susan Parker Bodine,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. E8-3615 Filed 2-25-08; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Refugee Resettlement

45 CFR Part 404

RIN 0970-AC28

Limitation on Use of Funds and Eligibility for Funds Made Available by the Office of Refugee Resettlement, Within the Administration for Children and Families, of the Department of Health and Human Services, To Monitor and Combat Trafficking in Persons

AGENCY: Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS).

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement two provisions of the Trafficking Victims Protection Act (TVPA) (22 U.S.C. Chapter 78), as amended by the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 (Pub. L. 108-193), that provide limitations on the use of funds. The provisions at Title 22 of the U.S.C. 7110(g) prohibit programs from using trafficking funds to promote, support, or advocate the legalization or practice of prostitution. They make ineligible to receive funds any organization that promotes, supports, or advocates the legalization or the practice of prostitution if the organization operates a program that targets victims of severe forms of trafficking, unless the organization provides assistance to individuals solely after they are no longer engaged in activities that resulted from their being trafficked. This proposed rule applies to funds that Congress appropriates for the U.S. Department of Health and Human Services for anti-trafficking purposes under Title 22 of the United States Code.

DATES: *Comment Date:* HHS will consider comments received on or before April 28, 2008.

ADDRESSES: You may submit your comments in writing to the Office of Refugee Resettlement, Administration for Children and Families, U.S. Department of Health and Human

Services, 370 L'Enfant Promenade, SW., 8th Floor, Washington, DC 20447. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5 p.m., at the Department's offices at the above address. You may download a copy of this regulation at www.regulations.gov, or you may download a copy and transmit written comments electronically via the Internet at the following address: <http://www.regulations.acf.hhs.gov>.

FOR FURTHER INFORMATION CONTACT:

Vanessa Garza, Associate Director for Trafficking Policy, Office of Refugee Resettlement, Administration for Children and Families, U.S. Department of Health and Human Services, (202) 401-2334, or by e-mail at vanessa.garza@acf.hhs.gov. Do not e-mail comments on the Proposed Rule to this address.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

This proposed rule implements two provisions concerning restrictions on the use of funds that were added to the TVPA by the TVPRA of 2003 and codified at Title 22 of the U.S.C. 7110(g). These provisions: (1) Prohibit any Federal funds appropriated under the TVPA, Public Law 106-386, and the TVPRA of 2003, or any amendments thereto, from being used to promote, support, or advocate the legalization or the practice of prostitution (designated the "Restriction on Programs" in the statute); and (2) make ineligible to receive Federal funds appropriated under the TVPA or TVPRA, or any amendments thereto, any organization that promotes, supports, or advocates the legalization or the practice of prostitution if the organization operates a program that targets victims of severe forms of trafficking, unless the organization provides assistance to individuals solely after they are no longer engaged in the activities that resulted from such victims being trafficked (designated the "Restriction on Organizations" in the statute).

II. Background

This regulation implements these statutory provisions as part of the U.S. Government's vigorous and comprehensive campaign to eliminate trafficking in persons at home and around the world. Congress and the Executive Branch are especially concerned about the significant role sexual exploitation plays in fueling trafficking in persons. The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing,

and which contribute to the phenomenon of trafficking in persons. Reducing the incidence of prostitution is therefore an inseparable part of the larger strategy of the United States to combat trafficking. In addition, prostitution is inherently harmful to society and degrading to the women and children involved in it, even if they allegedly choose prostitution as a form of "work," and even if authorities make prostitution legal or decriminalize it such that no person involved faces criminal prosecution. The U.S. Government does not accept the claim that the legalization of prostitution and/or societal acceptance of prostitution as a legitimate form of work would be effective strategies to reduce trafficking in persons. In sharp contrast, the U.S. Government has concluded that legalization and/or societal acceptance of prostitution would increase the sexual exploitation of women and children, particularly girls, and trafficking in persons specifically.

To pursue its comprehensive campaign to combat trafficking, the U.S. Government provides funds to domestic and foreign non-profit organizations (including, but not limited to, community action agencies, research institutes, educational associations, health centers, and hospitals), for-profit entities; U.S. State, local, and tribal governments and subdivisions thereof; Foreign Governments and subdivisions thereof; international organizations, such as agencies of the United Nations; international inter-governmental organizations; and other groups (hereinafter referred to collectively in this regulation as "organizations," or "organization" in the singular); and in some circumstances to individuals, for direct services to victims, public information campaigns, and other interventions.

Because of the connection between trafficking and prostitution, the U.S. Government cannot execute its comprehensive anti-trafficking campaign through programs or organizations that promote, support, or advocate the legalization of prostitution. Furthermore, the Executive Branch, as stated in the Trafficking in Persons National Security Presidential Directive 22 (NSPD-22), actively seeks to support efforts to develop civil-society institutions that promote the human rights of victims and populations vulnerable to trafficking, support law enforcement, and provide victims with assistance and protection. The goal of this policy is to provide incentives to rescue trafficking victims, rather than accept or validate the situations that result from their being trafficked.

The statute directs that Federal funds must not go to programs that promote, support, or advocate the legalization or practice of prostitution, and that organizations that operate programs to target victims of severe forms of trafficking must "state" that they do not promote, support, or advocate the legalization or the practice of prostitution. The Senior Policy Operating Group (SPOG), a statutorily established inter-agency, U.S. Government coordinating body, with membership determined pursuant to Executive Order No. 13257 of February 13, 2002 and including the Secretary of State, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of Central Intelligence, the Director of the Office of Management and Budget, the Administrator of the United States Agency for International Development, and any additional officers or employees of the United States as may be designated by the President, has decided that a statement in the form of a certification is the best means to ensure enforcement of these requirements.

This proposed rule applies to funds that Congress appropriates for the U.S. Department of Health and Human Services (HHS) for anti-trafficking purposes under Title 22 of the United States Code. Specifically, the rule proposes certification language that organizations must provide in applications for grants, cooperative agreements, contracts, grants under a contract, and other funding instruments made available by the HHS Administration for Children and Families (ACF) Office of Refugee Resettlement (ORR), the component carrying out the Victims of Human Trafficking program.

The statute requires the limitations to apply to a "grant application, a grant agreement, or both." The HHS/ACF/ORR interprets this reference to encompass all mechanisms for providing Federal assistance. Transfers of Federal funds occur through a diverse range of instruments in addition to grants. The policy against support, promotion, or advocacy of prostitution applies broadly to all such transfers, not merely those accomplished through grants. By applying the limitations to a diverse range of funding instruments, HHS/ACF/ORR reinforces the statutory purpose at 22 U.S.C. 7110(g)(1) that "*no funds* made available to carry out [the trafficking statute] may be used to promote, support, or advocate the legalization or practice of prostitution," (emphasis added) and ensures a more consistent implementation of the

limitations. In addition, application of the proposed rule to grants only would invite evasion of the policy. The proposed rule therefore applies to grants, cooperative agreements, contracts, grants under a contract, and other funding instruments.

The regulation is prospective and does not apply to funds already provided; the regulation does, however, apply to funds made available subject to a periodic renewal application or award.

There are two periods of time covered by restrictions in the statute and the regulation: (1) While victims are being trafficked and (2) after they are no longer engaged in the activities that resulted from their being trafficked. As specified by the statute, the proposed rule clarifies that prohibited "support" for prostitution does not prohibit assistance to victims to ameliorate their suffering, or health risks to them, both "while they are being trafficked," and "after they are out of the situation that resulted from their being trafficked." The regulation defines "ameliorative assistance" to include assistance intended to mitigate the suffering of, or health risks to, victims of trafficking caused by their being trafficked, or their engagement in the activities resulting from such victims being trafficked, including incidental or limited assistance deemed necessary to develop a relationship and rapport with the victim as part of a strategy to help the victim escape his or her trafficked condition, and cease those activities which result from their being trafficked.

The HHS/ACF/ORR is issuing this regulation in coordination with other U.S. Government Departments and agencies represented on the SPOG, all of which have developed their own proposed regulations or policy directives from a model regulation developed under the supervision of the SPOG. Each SPOG member Department or agency will implement its regulation in accordance with its standard grant-making and administrative procedures, which vary.

Nothing in the regulation is intended to lessen or relieve relevant prohibitions on Federal Government funding under other applicable Federal laws.

III. Discussion of the Proposed Rule

These sections discuss the proposed rule by defining the terms relevant to this proposed rule; detailing the restriction on programs for use of Federal anti-trafficking funds; discussing the restriction on organizations that receive Federal anti-trafficking funds; describing the certifications required for the receipt of Federal anti-trafficking funds;

explaining how the proposed rule applies to consortia; setting forth a policy for recordkeeping and inspection; and discussing the process for termination of Federal funding in the case of a violation of the rule.

Section 401.1 Definitions

This section defines the terms that are pertinent to this rule. Specifically, we propose the following definitions:

“Activities that resulted from the trafficking of such victims” means commercial sex acts induced by force, fraud, or coercion, or any such act in which the person induced to perform such act has not attained 18 years of age; or labor or services in which the recruitment, harboring, transportation, provision, or obtaining of the person induced to perform such labor or services has been through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. It does not mean mere presence in the United States.

“Ameliorative assistance” means assistance intended to relieve the suffering of, or health risks to, victims of trafficking caused by their being trafficked, or their engagement in activities resulting from such victims being trafficked, including incidental or limited assistance deemed necessary to develop a relationship and rapport with the victim as part of a strategy to help the victim escape his or her trafficked condition and cease those activities which result from their being trafficked. It does not mean assistance that supports the trafficker or that is not intended to facilitate the eventual rescue of the trafficking victim.

“Being trafficked” means the subject is the victim of a severe form of trafficking.

“Commercial sex act”, defined in Title 22 of the U.S.C. 7102(3), means any sex act on account of which anything of value is given to or received by any person.

“Emergency medical care” means examination or other care appropriate to address an existing emergency medical condition, including transport for further care.

“Emergency medical condition” means a medical condition that manifests itself by acute symptoms of sufficient severity (including severe pain), such that the absence of immediate medical attention could reasonably be expected to result in a physical disorder, physical illness, or physical injury that:

- (a) Is life-threatening;

- (b) results in permanent impairment of a body function or permanent damage to a body structure; or

- (c) necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.

“Funds made available for the purpose of monitoring or combating the trafficking of persons” means any U.S. Government funds appropriated by the U.S. Congress to the U.S. Department of Health and Human Services for anti-trafficking purposes under Title 22 of the United States Code, whether distributed through grants, cooperative agreements, contracts, grants under a contract, and other funding instruments.

“Legalization of prostitution” means a state of affairs in which prostitution is legal, decriminalized such that no person involved faces criminal prosecution, or regulated as a legitimate form of work.

“Organization” means a non-profit organization (including, but not limited to, a community action agency, research institute, educational association, health center, or hospital), a for-profit entity; U.S. State, local, or tribal government; or a contractor, including a personal services contractor.

“Program” means the method or procedures used to deliver assistance. The term includes activities conducted by a single individual or organization, by consortia of individuals or organizations, or by collaborations between or among individuals or organizations.

“Program that targets victims of severe forms of trafficking in persons” means a program that is designed to, or does, monitor or provide assistance to or is aimed at assisting victims of severe forms of trafficking in persons, including but not limited to, the Victims of Human Trafficking Program administered by the HHS/ACF/ORR.

“Prostitution” and *“the practice of prostitution”* means procuring or providing any commercial sex act as defined in Section 103(3) of the TVPA of 2000 (22 U.S.C. 7102(3)).

“Recipient” means an organization or individual that receives U.S. Government funds made available for the purpose of monitoring or combating the trafficking of persons.

“Severe forms of trafficking in persons” means sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or any such act in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for

the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

“Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

“Situation that resulted from such victims being trafficked” means a situation caused by or characterized by a victim engaging in activities that resulted from his or her being trafficked. It does not mean mere presence in the United States.

“Sub-recipient” means any entity to which a recipient of Federal funds makes some or all of those funds available, and which is accountable to the recipient for the use of the funds provided, including, without limitation, sub-sub grantees and sub-sub contractors.

“To support the legalization or the practice of prostitution” means to knowingly provide financial support, including the transfer of funds, services, or goods, to any individual or organization that engages in the practice of prostitution, or that promotes or advocates the legalization or the practice of prostitution, or that supports the legalization of prostitution; or to endorse or sponsor or support a document or conference that supports the legalization of prostitution; or to provide assistance to trafficking victims that is not ameliorative assistance, as defined in this regulation. An organization or recipient shall not be deemed to have knowingly provided such support if that organization or recipient did not know, and by the exercise of reasonable diligence would not have known, that its financial or organizational support was being used for, or would be used for, such purposes. Further, providing trafficking victims with emergency medical care for an emergency medical condition does not constitute such support.

“To promote or to advocate the legalization or the practice of prostitution” means to use financial, personal, in-kind, or other resources to further the legalization or the practice of prostitution, including by sponsoring or supporting conferences or publications that further the legalization or the practice of prostitution. This includes, but is not limited to, engaging in lobbying activities or public information or advocacy campaigns to further the legalization or the practice of prostitution.

Section 404.2 Restriction on Programs

This section of the proposed rule relates to the use of anti-trafficking funds provided by the HHS/ACF/ORR.

Under the proposed rule, Paragraph (a) would provide that no organization may use funds made available by the HHS/ACF/ORR for the purpose of monitoring or combating trafficking in persons to promote, support, or advocate the legalization or practice of prostitution.

Paragraph (b) would stipulate that nothing in paragraph (a) of this subsection shall be construed to preclude assistance designed to ameliorate the suffering of, or health risks to, victims while they are being trafficked, or after they are out of the situation that resulted from their being trafficked.

The proposed rule does not prohibit the provision of emergency medical care for an emergency medical condition, whenever provided. The HHS/ACF/ORR has determined the statutory prohibition on "support" for prostitution does not prohibit the provision of emergency medical care for an emergency medical condition, and thus that recipients of funds may provide emergency medical care for an emergency medical condition to victims during the two time periods described above. The HHS/ACF/ORR has defined "emergency medical condition" under Section 401.1. The statute, however, does not give authorization for assistance that supports the trafficker, or that is not intended to facilitate the eventual rescue of the trafficking victim. The HHS/ACF/ORR understands that Congress intended anti-trafficking funds to focus on activities designed to end trafficking and rescue victims, not on activities that would effectively facilitate, encourage, expand, condone, or subsidize prostitution activities.

Section 404.3 Restriction on Organizations

This section of the proposed rule describes the restrictions on the organizations that receive anti-trafficking funds from the HHS/ACF/ORR. The Federal Government finds that organizations that promote, support, or advocate the legalization or the practice of prostitution are not appropriate to conduct programs that serve victims of human trafficking.

Under Paragraph (a), no organization may use Federal funds made available for the purpose of monitoring or combating trafficking in persons to implement any program that targets victims of severe forms of trafficking in persons through any organization that has not certified it does not promote, support, or advocate the legalization or practice of prostitution. However, this would not apply to organizations that provide assistance to individuals solely

after they are no longer engaged in activities that resulted from such victims being trafficked.

Under Paragraph (b) of this section, an organization is ineligible to receive any Federal funds made available for the purpose of monitoring or combating trafficking in persons, unless it has provided the certifications required by Section 404.4.

Section 404.4 Certifications

This section of the proposed rule describes the certifications required to receive anti-trafficking funding from the HHS/ACF/ORR. The required certification has three basic parts, each of which organizations must complete as a part of their application for funding.

The first part implements the statutory Restriction on Programs through a Use of Funds Certification, located at Section 404.4(d)(1), in which an applicant or a recipient that is seeking or receiving Federal anti-trafficking funds administered by the HHS/ACF/ORR certifies it will not use those funds to promote, support, or advocate the legalization or the practice of prostitution.

The second part implements the Restriction on Organizations through three alternative certifications, of which organizations must sign at least one. Organizations that are implementing a program to target victims of severe forms of trafficking must provide the Primary Eligibility Certification, located at Section 404.4(d)(2)(i), unless they serve only individuals who are no longer engaged in the activities that resulted from their being trafficked. In that case, they must provide Secondary Eligibility Certification A at Section 404.4(d)(2)(ii), stating that they serve or provide services only to victims who are no longer engaged in the activities that resulted from their being trafficked. Other organizations that provide assistance to victims of non-severe forms of trafficking, or otherwise do not meet the criteria for organizations that must provide the other certifications, must provide Secondary Eligibility Certification B, located at Section 404.4(d)(2)(iii), to state that the organization does not implement a program that targets victims of severe forms of trafficking.

The third part of the certification contains Acknowledgement and Sub-recipient Certifications at Section 404.4(d)(3). These require each applicant to acknowledge that its provision of the certifications is a prerequisite to receiving Federal funds; that the Federal Government can stop or withdraw those funds if the HHS/ACF/ORR finds a certification to have been,

or becomes, inaccurate; and that the applicant will ensure that all its sub-applicants also provide the required certifications. As detailed in the certifications section, a sub-applicant must, at a minimum, provide the same certification as that provided by the original applicant.

To remain consistent with the policies for contracts in other HHS programs, the HHS/ACF/ORR is considering providing an exemption from the second part of the certification requirements, "Restrictions on Organizations," for "specified types of commercial contracts." "Specified types of commercial contracts" would be defined as contracts awarded for commercial items and services as defined in FAR 2.101, such as pharmaceuticals, medical supplies, logistics support, data management, and freight forwarding. Despite the preceding definition, "specified types of commercial contracts" would not include contracts awarded to carry out the trafficking program by:

- (a) Providing supplies or services directly to victims of trafficking
- (b) providing technical assistance and training to individuals or entities that provide supplies or services directly to victims of trafficking;
- (c) providing the types of services listed in FAR 37.203(b)(1)–(6) that involve giving advice about substantive policies of a recipient, giving advice regarding the activities referenced in (a) and (b) above, or making decisions or functioning in a recipient's chain of command (e.g., providing managerial or supervisory services approving financial transactions, personnel actions, etc.).

In October 2007, HHS' Office of Acquisition Management and Policy issued a policy to exempt such contracts/subcontracts for recipients of HHS funds in connection with the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003, or "Leadership Act" (<http://www.hhs.gov/oamp/policies/leadershipactclause.doc>). The HHS/ACF/ORR is interested in receiving comments about whether this exemption should also be contained in the rule.

Paragraph (e) of this section would define violations of this regulation by individuals who are employees, directors, or otherwise under the control of the recipient. This part also provides for exceptions in which the recipient does not provide reimbursement for such actions or the recipient takes reasonable steps necessary to clearly show that the recipient does not support, promote, or advocate the individual's position.

Paragraph (f) contains information regarding requirements for the renewal of certification. These require each recipient to file renewed certifications upon any extension, amendment, or modification of the funding instrument that extends the term of such instrument or adds additional funds to it.

Additionally, the requirements state that current funding recipients, as of the effective date of the regulation, must file a certification upon any extension, amendment, or modification of the funding instrument that extends the term of such instrument or adds additional funds to it.

Under Paragraph (g), recipients must submit certifications from each sub-recipient in writing, signed by the sub-recipient's officer or other person authorized to bind the sub-recipient.

Section 404.5 Restriction on Programs Operated with or through Consortia

No funds made available for the purpose of monitoring or combating the trafficking of persons may be made available through, or expended by, programs operated with, or through, a consortium of organizations that includes any organization that has not provided the HHS/ACF/ORR with a certification, as set out in Section 404.4.

In order to maintain the integrity of the funding limitations provided by Title 22 of the U.S.C. 7110(g), the HHS/ACF/ORR is considering adding a section to the final rule which would describe the factors used to determine whether an applicant, recipient, or sub-recipient of funds made available for the purpose of monitoring or combating trafficking in persons is appropriately separate from an affiliated organization that has not provided the certifications required by Section 404.4. These factors could be similar to those contained in 45 CFR 1610.8, which describe the extent of separation and independence that recipients of funds from the Legal Services Corporation must maintain from organizations that are ineligible to receive such funds because they do not make required certifications. These factors could also be similar to those contained in a July 2007 guidance issued by HHS pertaining to the "Leadership Act" (<http://www.globalhealth.gov/reports/index.html#guidance>). For example, a recipient could be found to be separate and independent from an affiliate organization if: (1) The affiliate organization is a legally separate entity; (2) the affiliate organization receives no transfer of HHS/ACF/ORR funds, and HHS/ACF/ORR funds do not subsidize restricted activities; and (3) the recipient is physically and financially separate

from the other organization. The HHS/ACF/ORR is interested in receiving comments about whether such factors should be contained in the rule and their content.

Section 404.6 Record-keeping and Inspection

This section of the proposed rule sets forth policy on record-keeping and inspection. Under Paragraph (a), recipients and sub-recipients shall maintain press and public relations material, Internet content, and other broadly disseminated documents (such as training manuals, curricula, and other educational matter) pertinent to establishing the validity of the certifications, provided for a period of three years after the end of the term of the grant, cooperative agreement, contract, grant under a contract, or other funding instrument through which the HHS/ACF/ORR or a recipient provided the Federal funds. If a recipient or sub-recipient starts any litigation, claim or audit before the expiration of the three-year period, parties must retain the records until all litigation, claims or audit findings involving the materials have been resolved and final action taken.

Paragraph (b) as proposed provides that authorized employees of the HHS/ACF/ORR have the right to timely and unrestricted access to the materials described in paragraph (a). This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents.

Section 404.7 Termination of Funding

This section of the proposed rule relates to the process for termination of funding for failure to comply with this regulation. Under paragraph (a) of this section, the HHS/ACF/ORR may terminate the transfer of funds to a recipient if the HHS/ACF/ORR determines that the recipient or a sub-recipient of the funds has failed to comply with the requirements of this part.

Paragraph (b) provides that a recipient whose funding the HHS/ACF/ORR has terminated shall reimburse the HHS/ACF/ORR for all funds expended after the violation occurred, or, in the case of a grant, cooperative agreement, contract, grant under a contract, or other funding instrument, the funds in their entirety, if the HHS/ACF/ORR determines that an organization's certification was or has become false.

Paragraph (c) provides that, in addition to termination of funding, the HHS/ACF/ORR may suspend or debar a recipient in violation of this part from

receiving any further Federal Government funds if the HHS/ACF/ORR determines that the violation of this part was willful.

Finally, paragraph (d) stipulates that terminations will be in accordance with the Federal Acquisitions Regulations, Part 49 for contracts; 45 CFR Part 74 or Part 92 for grants, cooperative agreements, and grants under a contract.

IV. Impact Analysis

Regulatory Flexibility Act

The Secretary certifies under Title 5 of the U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this rule will not result in a significant impact on a substantial number of small entities. The number of contracts affected by this rule is minimal. Since enactment of the anti-prostitution provision in the TVPRA of 2003, the HHS/ACF/ORR has required its program announcements for discretionary trafficking funding grants to include a "Certification Regarding Prostitution and Related Activities," which can take any form, including a written statement. The statute explicitly requires certifications.

Executive Order 12866—Regulatory Planning and Review

The HHS has drafted and reviewed this regulation in accordance with Executive Order 12866, Section 1(b), Principles of Regulation. The HHS/ACF/ORR has determined this rule is a "significant regulatory action" under Executive Order 12866, Section 3(f)(4), Regulatory Planning and Review, because it raises novel legal or policy issues, that arise out of legal mandates and the President's priorities, and accordingly the Office of Management and Budget has reviewed it.

The benefits of this rule are that the limitations on supporting, promoting, or advocating the legalization or the practice of prostitution will (1) help further the U.S. Government's strategy to reduce sexual exploitation that fuels trafficking in persons and (2) demonstrate the U.S. Government's opposition to prostitution. In addition, a potential benefit of the regulation could be that the incidence of prostitution and trafficking in the United States could decline.

Executive Order 13132—Federalism

Executive Order 13132 on Federalism requires Federal Departments and agencies to consult with State and local Government officials in the development of regulatory policies with implications for Federalism. This rule does not have Federalism implications

for State or local Governments, as defined in the Executive Order.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered Federal department or agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that could result in the expenditure by State, local, and tribal Governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. The HHS has determined this rule would not impose a mandate that will result in the expenditure by State, local, and Tribal Governments, in the aggregate, or by the private sector, of more than \$100 million in any one year.

Assessment of Federal Regulation and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal Departments and agencies to determine whether a proposed policy or regulation could affect family well-being. If the determination is affirmative, then the Department or agency must prepare an

impact assessment to address criteria specified in the law. These regulations will not have an impact on family well-being, as defined in this legislation.

Paperwork Reduction Act of 1995

Section 404.4 and 404.6 of this proposed rule contains an information collection requirement. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Administration for Children and Families has submitted a copy of this section to the Office of Management and Budget (OMB) for its review.

The title of the information collection is "Certification Regarding Use of Funds and Eligibility for Funds, as required by the Trafficking Victims Protection Reauthorization Act." The HHS/ACF/ORR sponsors the information collection. To obtain or retain Federal funding for anti-trafficking activities, the HHS/ACF/ORR requires the information of all applicants and recipients and all sub-applicants and sub-recipients of ORR anti-trafficking funding. The certification and associated documents are necessary to ensure organizations are not using

Federal anti-trafficking funds to promote, support or advocate the legalization or practice of prostitution, and that organizations that receive Federal funds to monitor and combat severe forms of trafficking in persons do not support, promote, or advocate the legalization or the practice of prostitution.

Likely respondents to this information collection include non-profit organizations (including, but not limited to, community action agencies, research institutes, educational associations, health centers, and hospitals); for-profit entities; U.S. State, local, and tribal governments and subdivisions thereof; and other groups and individuals.

The HHS/ACF/ORR estimates that 36 respondents will complete the certification within five minutes, and prepare documents to validate the certification within 25 minutes. Additionally, the HHS/ACF/ORR estimates a limited burden for record keeping of supporting documentation pertinent to establishing the validity of the certifications. The HHS therefore estimates annual aggregate burden to collect the information as follows:

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Certification Regarding Prostitution	36	1	.5	18
Recordkeeping and inspection	36	1	.5	18

Estimated Total Annual Burden Hours: 36.

The Administration for Children and Families will consider comments by the public on this proposed collection of information in the following areas: Evaluating whether the proposed collection is necessary for the proper performance of the functions of ACF, including whether the information will have practical utility; evaluating the accuracy of the ACF's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; enhancing the quality, usefulness, and clarity of the information to be collected; and minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, e.g., permitting electronic submission of responses. To ensure that public comments have maximum effect in developing the final regulations, the ACF urges that each comment clearly

identify the specific section or sections of the regulations that the comment addresses and that comments be in the same order as the regulations.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations. Written comments to OMB for the proposed information collection should be sent to the Office of Management and Budget either by e-mail to *OIRA_submission@omb.eop.gov* or by fax to 202-395-6974. Please mark all comments "Attention: Desk Officer for the Administration for Children and Families."

List of Subjects in 45 CFR Part 404

Administrative practice and procedure, Aliens, Civil rights, Human

trafficking, Immigration, Federal aid programs, Grant programs, Grants administration, Refugees, Victims.

Dated: February 9, 2007.

Martha E. Newton,

Director, Office of Refugee Resettlement,

Dated: February 11, 2007.

Wade F. Horn,

Assistant Secretary for Children and Families.

Approved: November 9, 2007.

Michael O. Leavitt,

Secretary of Health and Human Services.

For the reasons stated in the preamble, the Administration for Children and Families amends 45 CFR chapter IV to add part 404 to read as follows:

PART 404—LIMITATIONS ON ELIGIBILITY FOR AND USE OF FUNDS MADE AVAILABLE BY THE OFFICE OF REFUGEE RESETTLEMENT (ORR), WITHIN THE ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF) OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS), FOR MONITORING AND COMBATING TRAFFICKING IN PERSONS

Sec.

- 404.1 Definitions.
- 404.2 Restriction on programs.
- 404.3 Restriction on organizations.
- 404.4 Certifications.
- 404.5 Restriction on programs operated with or through consortia.
- 404.6 Record-keeping and inspection.
- 404.7 Termination of funding.

Authority: 22 U.S.C. 7110(g).

§ 404.1 Definitions.

For the purposes of this part:

Activities that resulted from such victims being trafficked means commercial sex acts induced by force, fraud, or coercion, or any such act in which the person induced to perform such act has not attained 18 years of age; or labor or services in which the recruitment, harboring, transportation, provision, or obtaining of the person induced to perform such labor or services has been through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. It does not mean mere presence in the United States.

Ameliorative assistance means assistance intended to relieve the suffering of, or health risks to, victims of trafficking caused by their being trafficked or their engagement in activities resulting from such victims being trafficked, including incidental or limited assistance deemed necessary to develop a relationship and rapport with the victim as part of a strategy to help the victim escape his or her trafficked condition and cease those activities which result from their being trafficked. It does not mean assistance that supports the trafficker or is not intended to facilitate the eventual rescue of the trafficking victim.

Being trafficked means the subject is the victim of a severe form of trafficking.

Commercial sex act, defined in Title 22 of the U.S.C. 7102(3), means any sex act on account of which anything of value is given to or received by any person.

Emergency medical care means examination or other care appropriate to address an existing emergency medical condition, including transport for further care.

Emergency medical condition means a medical condition that manifests itself by acute symptoms of sufficient severity (including severe pain), such that the absence of immediate medical attention could reasonably be expected to result in a physical disorder, physical illness, or physical injury that:

- (1) Is life threatening,
- (2) Results in permanent impairment of a body function or permanent damage to a body structure, or
- (3) Necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.

Funds made available for the purpose of monitoring or combating the trafficking of persons means any U.S. Government funds appropriated by the U.S. Congress to the U.S. Department of Health and Human Services for anti-trafficking purposes under Title 22 of the United States Code, whether distributed through grants, cooperative agreements, contracts, grants under a contract, or other funding instruments.

Legalization of prostitution means a state of affairs in which prostitution is legal, decriminalized such that no person involved faces criminal prosecution, or regulated as a legitimate form of work.

Organization means a non-profit organization (including, but not limited to, a community action agency, research institute, educational association, health center, or hospital), a for-profit entity; U.S. State, local, or tribal Government; or a contractor, including a personal services contractor.

Program means the method or procedures used to deliver assistance. The term includes activities conducted by a single individual or organization, by consortia of individuals or organizations, or by collaborations between or among individuals or organizations.

Program that targets victims of severe forms of trafficking in persons means a program that is designed to, or does, monitor or provide assistance to or is aimed at assisting victims of severe forms of trafficking in persons, including but not limited to, the Victims of Human Trafficking Program administered by the HHS/ACF/ORR.

Prostitution and the practice of prostitution means procuring or providing any commercial sex act as defined in Section 103(3) of the Trafficking Victims Protection Act (TVPA) of 2000 (22 U.S.C. 7102(3)).

Recipient means an organization or individual receiving U.S. Government funds made available for the purpose of monitoring or combating the trafficking of persons.

Severe forms of trafficking in persons means sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or any such act in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

Situation that resulted from such victims being trafficked means a situation caused by or characterized by a victim's engaging in activities that resulted from his or her being trafficked. It does not mean mere presence in the United States.

Sub-recipient means any entity to which a recipient of Federal funds makes some or all of those funds available, and which is accountable to the recipient for the use of the funds provided, including, without limitation, sub-sub grantees and sub-sub contractors.

To support the legalization or the practice of prostitution means to knowingly provide financial support, including the transfer of funds, services, or goods, to any individual or organization that engages in the practice of prostitution or that promotes or advocates the legalization or the practice of prostitution, or that supports the legalization of prostitution; or to endorse or sponsor or support a document or conference that supports the legalization of prostitution; or to provide assistance to trafficking victims that is not ameliorative assistance, as defined in this regulation. An organization or recipient shall not be deemed to have knowingly provided such support if that organization or recipient did not know, and by the exercise of reasonable diligence would not have known, that its financial or organizational support was being used for, or would be used for, such purposes. Further, providing trafficking victims with emergency medical care for an emergency medical condition does not constitute such support.

To promote or to advocate the legalization or the practice of prostitution means to use financial, personal, in-kind, or other resources to further the legalization or the practice of prostitution, including by sponsoring or supporting conferences or publications that further the legalization or the practice of prostitution. This includes,

but is not limited to, engaging in lobbying activities or public information or advocacy campaigns to further the legalization or practice of prostitution.

§ 404.2 Restriction on programs.

(a) No funds made available by the HHS/ACF/ORR for the purpose of monitoring or combating trafficking in persons may be used to promote, support, or advocate the legalization or practice of prostitution.

(b) Nothing in paragraph (a) of this section shall be construed to preclude assistance designed to ameliorate the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from their being trafficked.

§ 404.3 Restriction on organizations.

(a) No funds made available for the purpose of monitoring or combating trafficking in persons may be used to implement any program that targets victims of severe forms of trafficking in persons through any organization that has not certified that it does not promote, support, or advocate the legalization or practice of prostitution. The preceding sentence shall not apply to organizations that provide services to individuals solely after they are no longer engaged in activities that resulted from their being trafficked.

(b) An organization is ineligible to receive any funds made available for the purpose of monitoring or combating trafficking in persons, unless it has provided the certifications required by § 404.4.

§ 404.4 Certifications.

(a) Applicants shall include certifications in the application for the grant, cooperative agreement, contract, grant under a contract, or other funding instrument, made by an officer or other person authorized to bind the applicant.

(b) The HHS/ACF/ORR shall notify applicants for any grant, cooperative agreement, contract, grant under a contract, or other funding instrument of the certification requirement through public announcement of the availability of the grant, cooperative agreement, contract, grant under a contract, or other funding instrument.

(c) All applicants must provide the certifications in paragraph (d)(1) of this section (the Use of Funds Certification) and paragraph (d)(3) of this section (Acknowledgement and Sub-Applicant Certifications), and organizations that are applicants must provide at least one of the certifications in paragraph (d)(2) of this section (by choosing among the Primary Eligibility certification and the two Secondary Eligibility

Certifications). Organizations that are sub-applicants of an organization that provides the Primary Eligibility Certification must themselves provide the Primary Eligibility Certification. Likewise, organizations that are sub-applicants of an organization that provides Secondary Eligibility Certification A must themselves provide Secondary Eligibility Certification A, and organizations that are sub-recipients of an organization that provides Secondary Eligibility Certification B must provide Secondary Eligibility Certification B.

(d) The certifications shall state as follows:

(1) Use of Funds Certification: "I hereby certify that the recipient of the funds made available through this [grant, cooperative agreement, contract, grant under a contract, or other funding instrument] will not use such funds to promote, support, or advocate the legalization or the practice of prostitution."

(2) Eligibility Certifications.

(i) Primary Eligibility Certification: "I certify that the organization does not promote, support, or advocate the legalization or the practice of prostitution, and will not promote, support, or advocate the legalization or the practice of prostitution during the term of this [grant, cooperative agreement, contract, grant under a contract, or other funding instrument]. I further certify that the organization does not operate through any other organization or individual that supports, promotes, or advocates the legalization or the practice of prostitution."

(ii) Secondary Eligibility Certification A: "I certify that the organization provides assistance to individuals only after they are no longer engaged in activities that resulted from their being trafficked, and that the organization does not operate through any organization that provides assistance to victims other than after those victims are no longer engaged in the activities that resulted from their being trafficked. I further certify that if, during the funding period, the organization or any sub-recipient begins to provide assistance to other victims, the organization and all its sub-recipients, prior to the time such assistance is provided, will provide the Primary Eligibility Certification in 45 CFR 404.4(d)(2)(i)."

(iii) Secondary Eligibility Certification B: "I certify that the organization does not implement a program that serves victims of severe forms of trafficking, and that the applicant does not operate through any organization or individual that implements a program that serves

victims of severe forms of trafficking. I further certify that if, during the funding period, the organization or any sub-recipient begins to implement such a program, the organization and all its sub-recipients, prior to implementation of such a program, will provide the Primary Eligibility Certification in 45 CFR 404.4(d)(2)(i)."

(3) Acknowledgement and Sub-applicant Certifications: "I further certify that the applicant acknowledges that these certifications are a prerequisite to receipt of U.S. Government funds in connection with this [grant, cooperative agreement, contract, grant under a contract, or other funding instrument], and that any violation of these certifications shall be grounds for unilateral termination by the HHS/ACF/ORR of any grant, cooperative agreement, contract, grant under a contract, or other funding instrument prior to the end of its term and recovery of appropriated funds expended prior to termination. I further certify that the applicant will include this identical certification requirement in any [grant, cooperative agreement, contract, grant under a contract, or other funding instrument] to a sub-applicant of funds made available under this [grant, cooperative agreement, contract, grant under a contract, or other funding instrument], and will require such sub-applicant to provide the same certification that the organization provided."

(e) The HHS/ACF/ORR shall consider an recipient in violation of its certifications if an individual who is an employee, director, or otherwise under the control of the recipient supports, promotes, or advocates the legalization or the practice of prostitution, unless:

(1) The recipient does not endorse or provide financial support for the action by the individual and prohibits the individual from accepting reimbursement from other organizations for such action insofar as such reimbursement occurs because of the individual's position with the recipient.

(2) The applicant takes reasonable steps necessary to ensure that a reasonable observer would understand the individual is not representing the applicant, and that the applicant does not endorse the individual's promotion, support, or advocacy of prostitution or its legalization.

(f) Recipient, sub-recipients, applicants and sub-applicants of funds must file a renewed certification upon any extension, amendment, or modification of the grant, cooperative agreement, contract, grant under a contract, or other funding instrument that extends the term of such instrument

or adds additional funds to it.

Recipients and sub-recipients that are already recipients, sub-recipients, applicants and sub-applicants as of the effective date of this regulation must file a certification upon any extension, amendment, or modification of the grant, cooperative agreement, contract, grant under a contract, or other funding instrument that extends the term of such instrument or adds additional funds to it.

(g) Sub-applicants of funds must provide the HHS/ACF/ORR with a certification as set out in Paragraph (c) of this section, or in a separate writing signed by the sub-applicant officer or other person authorized to bind the applicant, submitted as part of the application for award of the grant, cooperative agreement, contract, grant under a contract, or other funding instrument.

§ 404.5 Restriction on programs operated with or through consortia.

The HHS/ACF/ORR may not make available any funds appropriated for the purpose of monitoring or combating the trafficking of persons through, or expended by, programs operated with, or through, a consortium of organizations that includes any organization that has not provided the HHS/ACF/ORR with a certification as set out in § 404.4.

§ 404.6 Record-keeping and inspection.

(a) Recipients and sub-recipients shall maintain press and public relations material, Internet content, and other broadly disseminated documents (such as training manuals, curricula, and other educational matter) pertinent to establishing the validity of the certifications for a period of three years after the end of the term of the grant, cooperative agreement, contract, grant under a contract, or other funding instrument through which the HHS/ACF/ORR provided the funds. If any litigation, claim or audit is started before the expiration of the three year period, the records must be retained until all litigation, claims or audit findings involving the materials have been resolved and final action taken.

(b) Authorized HHS/ACF/ORR employees have the right to timely and unrestricted access to the materials described in paragraph (a) of this section. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents.

§ 404.7 Termination of funding.

(a) The HHS/ACF/ORR may terminate transfer of funds to a recipient, including by terminating a grant, cooperative agreement, contract, grant under a contract, or other funding instrument, if the HHS/ACF/ORR determines that the recipient or a sub-recipient of the funds has failed to comply with the requirements of this part.

(b) A recipient whose HHS/ACF/ORR funding has been terminated shall reimburse the HHS/ACF/ORR for all funds expended after the violation occurred, or, in the case of a grant, cooperative agreement, contract, grant under a contract, or other funding instrument, the funds in their entirety if the HHS/ACF/ORR determines that an organization's statement was or has become false.

(c) In addition to termination of funding, the HHS/ACF/ORR may suspend or debar a recipient in violation of this part from receiving any further Federal government funds if the HHS/ACF/ORR determines that the violation of this part was willful.

(d) Terminations will be in accordance with the Federal Acquisition Regulations, Part 49 for contracts; 45 CFR Part 74 or Part 92 for grants, cooperative agreements, and grants under a contract.

[FR Doc. E8-3489 Filed 2-25-08; 8:45 am]

BILLING CODE 4184-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS-R6-ES-2008-0022; 1111 FY07 MO-B2]

Endangered and Threatened Wildlife and Plants; Initiation of Status Review for the Greater Sage-Grouse (*Centrocercus urophasianus*) as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; initiation of status review and solicitation of new information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the initiation of a status review for the greater sage-grouse (*Centrocercus urophasianus*). Through this action, we encourage all interested parties to provide us information regarding the status of, and any potential threats to, the greater sage-grouse.

DATES: To be considered in our determination whether listing is warranted, data, comments, and information should be submitted to us on or before May 27, 2008.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R6-ES-2008-0022; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: The U.S. Fish and Wildlife Service's Wyoming Ecological Services Field Office, 5353 Yellowstone Road, Suite 308A, Cheyenne, Wyoming 82009; telephone 307-772-2374. People who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Public Information Solicited

To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information concerning the status of the greater sage-grouse. We request any additional information, comments, and suggestions from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties on the status of the greater sage-grouse throughout its range, including:

(1) Information regarding the species' historical and current population status, distribution, and trends; its biology and ecology; and habitat selection;

(2) Information on the effects of potential threat factors that are the basis for a listing determination under section 4(a) of the Act, which are:

(a) present or threatened destruction, modification, or curtailment of the species' habitat or range;

(b) overutilization for commercial, recreational, scientific, or educational purposes;

(c) disease or predation;

(d) the inadequacy of existing regulatory mechanisms; or

(e) other natural or manmade factors affecting its continued existence.

(3) Information on management programs for the conservation of the greater sage-grouse.

Please note that comments merely stating support or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, because section 4(b)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*) directs that determinations as to whether any species is a threatened or endangered species must be made “solely on the basis of the best scientific and commercial data available.” At the conclusion of the status review, we will determine whether listing is warranted, not warranted, or warranted but precluded.

You may submit your comments and materials concerning this finding by one of the methods listed in the **ADDRESSES** section. We will not accept comments you send by e-mail or fax.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that we will post your entire comment—including your personal identifying information—on <http://www.regulations.gov>. 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.

Comments and materials we receive, as well as supporting documentation we used in preparing this finding, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service’s Wyoming Ecological Services Field Office, 5353 Yellowstone Road, Suite 308A, Cheyenne, Wyoming 82009; telephone 307-772-2374.

Background

On July 2, 2002, we received a petition from Craig C. Dremann requesting that we list the greater sage-grouse (*Centrocercus urophasianus*) as endangered across its entire range. We received a second petition from the

Institute for Wildlife Protection on March 24, 2003 (Webb 2002), requesting that the greater sage-grouse be listed rangewide. On December 29, 2003, we received a third petition from the American Lands Alliance and 20 additional conservation organizations (American Lands Alliance et al.) to list the greater sage-grouse as threatened or endangered rangewide. On April 21, 2004, we announced our 90-day petition finding in the **Federal Register** (69 FR 21484) that these petitions taken collectively, as well as information in our files, presented substantial information indicating that the petitioned actions may be warranted.

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Threatened and Endangered Wildlife and Plants that contains substantial scientific or commercial information that the action may be warranted, we make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted but precluded by other pending proposals. Such 12-month findings are to be published promptly in the **Federal Register**. On January 12, 2005, we announced our 12-month finding (70 FR 2244) that after reviewing the best available scientific and commercial information, we found that listing the greater sage-grouse was not warranted.

Western Watersheds Project filed a complaint on July 14, 2006, alleging that our finding was arbitrary and capricious under the Administrative Procedure Act (5 U.S.C. 701 *et seq.*). On December 4, 2007, the U.S. District Court, District of Idaho, ruled that our 12-month petition finding was in error and remanded the case to the Service for further consideration. Legal action is still pending and the Court has not yet set a date for completion of the remand.

Subject to any new court order, the Service has determined that it is appropriate to initiate a new status

review to address information that has become available since our 2005 petition finding. That finding relied, in part, on information in the “Conservation Assessment of Greater Sage-Grouse and Sagebrush Habitats” published in 2004 by the Western Association of Fish and Wildlife Agencies. Since the publication in 2004 of the Conservation Assessment, a significant amount of new research has been completed and new information has become available regarding threats, conservation measures, and population and habitat status of the greater sage-grouse.

Unless the court requires an earlier completion date for a remanded 12-month finding, it is our intention to complete this new status review and make a new determination at that time as to whether listing is warranted.

At this time, we are soliciting new information on the status of and potential threats to the greater sage-grouse. Information submitted prior to January 12, 2005, will be considered and need not be resubmitted. We will base our new determination as to whether listing is warranted on a review of the best scientific and commercial information available, including all such information received as a result of this notice. For more information on the biology, habitat, and range of the sage-grouse, please refer to our previous 12-month finding published in the **Federal Register** on January 12, 2005 (70 FR 2244).

Author

The primary author of this notice is the staff of the Wyoming Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 15, 2008.

Dale Hall,

Director, U.S. Fish and Wildlife Service.

[FR Doc. E8-3374 Filed 2-25-08; 8:45 am]

BILLING CODE 4310-55-P

Notices

Federal Register

Vol. 73, No. 38

Tuesday, February 26, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Seek Approval To Revise and Extend an Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Field Crops Objective Yield Surveys. Revision to burden hours may be needed due to changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by April 28, 2008 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535-0088, by any of the following methods:

- E-mail: ombofficer@nass.usda.gov.

Include docket number above in the subject line of the message.

- Fax: (202) 720-06396.

- Mail: Mail any paper, disk, or CD-ROM submissions to: NASS Clearance Officer, U.S. Department of Agriculture, Room 5336A, Mail Stop 2024, South Building, 1400 Independence Avenue, SW., Washington, DC 20250-2024.

- Hand Delivery/Courier: Hand deliver to: NASS Clearance Officer, U.S. Department of Agriculture, Room 5336A, South Building, 1400 Independence Avenue, SW., Washington, DC 20250-2024.

FOR FURTHER INFORMATION CONTACT:

Joseph T. Reilly, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720-4333.

SUPPLEMENTARY INFORMATION:

Title: Field Crops Objective Yield.

OMB Control Number: 0535-0088.

Expiration Date of Approval: November 30, 2008.

Type of Request: Intent to Request Approval to Revise and Extend an Information Collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition. The Field Crops Objective Yield Surveys objectively predict yields for corn, cotton, potatoes, soybeans, and wheat. Sample fields are randomly selected for these crops, plots are laid out, and periodic counts and measurements are taken and then used to forecast production during the growing season. Production forecasts are published in USDA Crop Production reports. The Field Crops Objective Yield Surveys have approval from OMB for a 3-year period; NASS intends to request that the surveys be approved for another 3 years.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-113) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995).

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 24 minutes.

Respondents: Farmers, ranchers, or farm managers.

Estimated Number of Respondents: 8,555.

Estimated Total Annual Burden on Respondents: 3,422 hours.

Copies of this information collection and related instructions can be obtained without charge from NASS Clearance Officer, at (202) 720-2248.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, February 8, 2008.

Joseph T. Reilly,

Associate Administrator.

[FR Doc. 08-840 Filed 2-25-08; 8:45 am]

BILLING CODE 3410-20-M

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

Determination of the 2007 Fiscal Year Interest Rate on Rural Telephone Bank Loans

AGENCY: Rural Telephone Bank, USDA.

ACTION: Notice of 2007 fiscal year interest rate determination.

SUMMARY: In accordance with 7 CFR 1610.10, the Rural Telephone Bank (Bank) cost of money rate has been established as 5.84% for all advances made during fiscal year 2007 (the period beginning October 1, 2006 and ending September 30, 2007). All advances made during fiscal year 2007 were under Bank loans approved on or after October 1, 1992. These loans are sometimes referred to as financing account loans.

The methodology required to calculate the cost of money rate is established in 7 CFR 1610.10(c). Because of the dissolution of the Bank, the only remaining component of the calculation of the Bank's cost of money rate for fiscal year 2007 is the rate paid by the Bank to the Treasury to borrow the funds advanced under financing account loans. Since the rate paid to the Treasury is greater than or equal to the minimum rate (5.00%) allowed under 7 U.S.C. 948(b)(3)(A), the cost of money rate is set at 5.84%.

FOR FURTHER INFORMATION CONTACT:

Jonathan P. Claffey, Deputy Assistant Governor, Rural Telephone Bank, STOP 1590—Room 5151, 1400 Independence

Avenue, SW., Washington, DC 20250–1590. Telephone: (202) 720–9556.

SUPPLEMENTARY INFORMATION: The cost of money rate methodology develops a weighted average rate for the Bank's cost of money considering total fiscal year loan advances, debentures and other obligations, and the costs to the Bank of obtaining funds from these sources. Because of the dissolution of the Bank, which was discussed at greater length in the Notice of 2006 fiscal year interest rate determination published November 30, 2006 (See 71 FR 69200), the only component described in 7 CFR 1610.10(c) that is still relevant to the determination of the Bank's cost of money interest rate is the rate paid on the issuance of debentures and other obligations [see 7 CFR 1610.10(c)(4)]. The table that has been attached to this notice in prior years will no longer be provided since the only calculation necessary to determine the interest rate for advances is the comparison of the interest rate on Treasury borrowings to the statutory minimum rate.

Progress of Dissolution of the Bank

At its quarterly meeting on August 4, 2005, the Board of Directors (the "Board") approved a resolution to dissolve the Bank. On November 10, 2005, the liquidation and dissolution process was initiated with the signing by President Bush of the 2006 Agriculture Appropriations bill, which contained a provision lifting the restriction on the retirement of more than 5 percent of the Class A stock held by the Government. This paved the way for all Bank stock to be redeemed.

The dissolution process is now largely complete. The Government's Class A stock was redeemed on April 10, 2006; redemption payments to Class B and C shareholders began on April 11, 2006 and were completed by September 30, 2006. The final liquidation payments were made to Class A and B shareholders at the time of liquidation on November 13, 2007. The only action still to be taken is the completion of a final audit.

Sources and Costs of Funds

Due to the dissolution of the Bank, the only remaining source of funds is the borrowings from the Treasury, which are categorized as issuance of debentures or other obligations in accordance with the regulations pertaining to the setting of the interest rate for advances on Bank loans (7 CFR 1610.10(c)(4)). For fiscal year 2007, Treasury borrowings related to advances were \$53,534,679 at an interest rate of 5.84%. Since this rate exceeds the minimum statutory rate of 5.00% for

Bank loans, the Bank's cost of money rate for fiscal year 2007 advances is set at 5.84%.

James M. Andrew,

Governor, Rural Telephone Bank.

[FR Doc. E8–3561 Filed 2–25–08; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–930]

Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 26, 2008.

FOR FURTHER INFORMATION CONTACT: Melissa Blackledge, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3518.

SUPPLEMENTARY INFORMATION:

The Petition

On January 30, 2008, the Department of Commerce ("Department") received a petition concerning imports of circular welded austenitic stainless pressure pipe from the People's Republic of China ("PRC") filed in proper form by Bristol Metals, L.P., Felker Brothers Corp., Marcegaglia USA Inc., Outokumpu Stainless Pipe, Inc. and United Steel Workers of America (collectively "Petitioners"). See Petition on Welded Stainless Pressure Pipe from the People's Republic of China, dated January 30, 2008 ("Petition"). In February 2008, the Department issued multiple requests for additional information, seeking clarification of certain areas of the Petition. Based on the Department's requests, Petitioners filed additional information on February 5 through February 13, 2008.

In accordance with section 732(b) of the Tariff Act of 1930, as amended ("Act"), Petitioners allege that imports of circular welded austenitic stainless pressure pipe from the PRC are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threaten material injury to, an industry in the United States.

The Department finds that Petitioners filed this Petition on behalf of the

domestic industry because Petitioners are interested parties as defined in section 771(9)(C) and (D) of the Act, and have demonstrated sufficient industry support with respect to the antidumping duty investigation that Petitioners are requesting the Department initiate (see "Determination of Industry Support for the Petition" section below).

Period of Investigation

The period of investigation ("POI") is July 1 through December 31, 2007. See 19 CFR 351.204(b).

Scope of Investigation

The merchandise covered by this investigation is circular welded austenitic stainless pressure pipe ("CWASPP") not greater than 14 inches in outside diameter. This merchandise includes, but is not limited to, the American Society for Testing and Materials ("ASTM") A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications. ASTM A–358 products are only included when they are produced to meet ASTM A–312 or ASTM A–778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope are: (1) welded stainless mechanical tubing, meeting ASTM A–554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A–249, ASTM A–688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A–269, ASTM A–270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States ("HTSUS"). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested

parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 days of signature of this notice. Comments should be addressed to Import Administration's Central Records Unit ("CRU"), Room 1117, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, attention Melissa Blackledge, room 3067. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Comments on Product Characteristics for Antidumping Duty Questionnaire

We are requesting comments from interested parties regarding the appropriate physical characteristics of CWASPP to be reported in response to the Department's antidumping questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order for respondents to accurately report the relevant factors of production, as well as develop appropriate product reporting criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. For example, they may provide comments as to which characteristics are appropriate to use as general product characteristics and product reporting criteria. We note that it is not always appropriate to use all product characteristics as product reporting criteria. We base product reporting criteria on meaningful differences among products. While there may be some physical product characteristics which manufacturers use to describe CWASPP, it may be that only a select few product characteristics take into account meaningful physical characteristics. In order to consider the suggestions of interested parties in developing the antidumping duty questionnaire, we must receive comments at the above-referenced address by March 10, 2008. Rebuttal comments must be received within 10 calendar days of the receipt of timely filed comments.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the

petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of

the information submitted on the record, we have determined that CWASPP constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* the Antidumping Investigation Initiation Checklist: Circular Welded Austenitic Stainless Pressure Pipe from the PRC ("Initiation Checklist") at Attachment II (Industry Support) on file in the Central Records Unit, Room 1117 of the main Department of Commerce building.

In determining whether Petitioners have standing (*i.e.*, those domestic workers and producers supporting the Petition account for (1) at least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition), we considered the industry support data contained in the Petition with reference to the domestic like product as defined in Attachment I to the Initiation Checklist (Scope of the Petition). To establish industry support, Petitioners provided their shipments for the domestic like product for the year 2007, and compared them to shipments of the domestic like product for the industry. In their supplement to the Petition, dated February 13, 2008, Petitioners demonstrated the correlation between shipments and production. *See* Petitioners' February 13, 2008, supplemental at 1 and Exhibit 1. Based on the fact that total industry production data for the domestic like product for 2007 is not reasonably available, and that Petitioners have established that shipments are a reasonable proxy for production data, we have relied upon shipment data for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II (Industry Support).

Our review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioners have established industry support. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* Section 732(c)(4)(D) of the Act. Second, the domestic producers have met the statutory criteria for industry support under 732(c)(4)(A)(i) because the

domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product. Finally, the domestic producers have met the statutory criteria for industry support under 732(c)(4)(A)(ii) because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See Initiation Checklist at Attachment II (Industry Support).

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) and (D) of the Act and it has demonstrated sufficient industry support with respect to the antidumping investigation that it is requesting the Department initiate. See Initiation Checklist at Attachment II (Industry Support).

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value ("NV"). Petitioners contend that the domestic industry's injured condition is illustrated by reduced market share, lost sales, reduced production, reduced capacity and capacity utilization rate, reduced shipments, underselling and price depressing and suppressing effects, lost revenue, reduced employment, decline in financial performance, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See Initiation Checklist at Attachment III (Injury).

Allegation of Sales at Less Than Fair Value

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate this investigation of imports of CWASPP from the PRC. The sources of data for the deductions and adjustments relating to the U.S. price and the factors of production are also

discussed in the checklist. See Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will reexamine the information and revise the margin calculations, if appropriate.

Export Price

Petitioners relied on eight prices obtained from U.S. distributors of CWASPP manufactured by PRC producers/exporters. The eight prices are for POI sales of CWASPP that falls within the scope of the Petition and include freight costs incurred to ship the merchandise from the PRC to the U.S. port. Petitioners deducted from the prices the costs associated with exporting and delivering the product to the customer in the United States, including international freight and handling, U.S. duty charges, and a trading company markup. Petitioners based international freight and handling and U.S. duty charges on the difference between the cost-freight-insurance and free-alongside-ship values for U.S. imports from the PRC under the HTSUS subheadings applicable to the subject merchandise. See Petition at 13-14 and Exhibit I-30 and Petitioners' February 13, 2008, supplemental at 1 and Exhibits 2 and 6. Petitioners calculated a trading company mark-up based on their own experience and knowledge of the industry. See Petition at Exhibit I-8 and Petitioners' February 5, 2008, supplemental at 1 and Exhibits 2 and 3.

Normal Value

In accordance with section 771(18)(C)(i) of the Act, the presumption of non-market economy ("NME") status remains in effect until revoked by the Department. Petitioners note that the Department has not revoked the NME status of the PRC, and thus they treated the PRC as an NME country for purposes of their Petition. In May 2006, the Department examined the PRC's market status and determined that NME status should continue for the PRC. See Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, Regarding The People's Republic of China Status as a Non-Market Economy, dated May 15, 2006 (this document is available online at <http://ia.ita.doc.gov/ia-news-2006.html>). This determination continues to be applied in the Department's NME antidumping proceedings. See, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007), and *Final*

Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China, 72 FR 19690 (April 19, 2007). Because the presumption of NME status for the PRC has not been revoked by the Department it remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production valued in a surrogate market-economy country in accordance with section 773(c) of the Act. After initiation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioners selected India as the primary surrogate country arguing, pursuant to section 773(c)(4) of the Act, that India is an appropriate surrogate because it is a market-economy country that is at a level of economic development comparable to that of the PRC and is a significant producer of CWASPP. See Petition at 6-7. Based on the information provided by Petitioners, we find it appropriate to use India as a surrogate country for this initiation. After initiation, we will solicit comments regarding surrogate country selection.

Petitioners calculated NVs for each of the U.S. prices discussed above using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Because the quantities of the factors of production that are consumed by Chinese companies in manufacturing CWASPP are not available to Petitioners, Petitioners calculated NVs using consumption rates experienced by a U.S. producer of CWASPP. See Petition at 7. Petitioners provided information, which they claim demonstrates that Chinese and U.S. companies use the same process to produce CWASPP. See Petitioners' February 5, 2008, supplemental at 3 and Exhibit 4 and Petitioners' February 13, 2008, supplemental at 2. Additionally, Petitioners provided an affidavit to support their use of U.S. production data. See Petition at Exhibit I-13 and Petitioners' February 5, 2008, supplemental at Exhibit 5. Petitioners valued the factors of production as noted below.

Petitioners valued stainless steel using POI world-prices from Management Engineering & Production Services ("MEPS"), an organization that they identified as a "leading source of pricing data in the stainless steel industry." According to Petitioners, it

would not be appropriate to value stainless steel using import prices from India, or any other potential surrogate country, because import statistics do not distinguish between basic stainless steel and the more expensive grades of stainless steel (grades 304 and 316) that were used to produce the merchandise for which Petitioners obtained U.S. price quotes. Petitioners claim that obtaining prices specific to grades 304 and 316 stainless steel is critical because these grades contain high concentrations of expensive alloys, such as nickel and molybdenum, and cost several times more than the cost of basic stainless steel. See Petition at 8–9 and Exhibit I–20. Moreover, Petitioners contend that it would not be appropriate to value stainless steel using Indian Average Unit Values (“AUVs”) because (1) news reports indicate that India primarily produces stainless steel with a low nickel content (*i.e.*, grades other than 304 and 316) and (2) the AUVs of hot-rolled stainless steel imported into India do not even reach the cost of the nickel and molybdenum contained in grades 304 and 316 stainless steel. See Petition at 8–11 and Exhibits I–14 through I–18 and Petitioners’ February 8, 2008, supplemental at 2–3 and Exhibit 1.

In response to the Department’s request to provide stainless steel prices from the other potential surrogate countries, Petitioners provided a domestic Indian company price quote that was obtained by their counsel. See Petitioners’ February 8, 2008, supplemental at 6 and Exhibit 5. Additionally, in supplements to the Petition, Petitioners valued stainless steel using the prices paid by one of the Petitioning firms. See Petitioners’ February 8, 2008, supplemental at 12 and Exhibit 10 and Petitioners’ February 13, 2008, supplemental at 4 and Exhibit 6.

When subject merchandise is exported from an NME country, section 773 (c)(1)(B) of the Act directs the Department to determine NV based on the value of factors of production in one or more market economy countries that are (1) at a level of economic development comparable to the NME country and (2) significant producers of merchandise comparable to subject merchandise (*i.e.*, surrogate countries). Petitioners have not provided a sufficient basis for the Department to depart from this approach. In contending that import statistics from surrogate countries, including India, should not be used to value stainless steel because they do not separately identify imports of grades 304 and 316 steel, Petitioners did not claim that

those steel grades were not imported into, or used in, the surrogate countries. The fact that import statistics may contain imports of materials other than the material that is being valued does not necessarily render those statistics inappropriate surrogate values. Moreover, although the Department requested that Petitioners provide stainless steel values from surrogate countries in addition to India, Petitioners did not do so, nor did they demonstrate that such values are distortive. See Petitioners’ February 8, 2008, supplemental at 5–6. With respect to the MEPS prices, we note that Petitioners did not (1) identify the countries from which the MEPS prices were derived, (2) demonstrate that MEPS data excludes prices that are not used in valuing factors of production (*e.g.*, prices from NME countries), and (3) demonstrate that MEPS prices are preferable to other sources of prices from multiple-countries. Finally, we do not find Petitioners’ costs to be an appropriate surrogate value in an NME case.

Thus, for initiation purposes, we have determined that Indian import statistics, which are the only surrogate country prices from public sources on the record of this proceeding, are the best information with which to value stainless steel. Therefore, in accordance with section 773(c)(1)(B) of the Act, we recalculated NVs and the dumping margins using stainless steel values derived from Indian import statistics for January 2007, through June 2007, which is the most recent data available. See Initiation Checklist at Attachment V. The Department excluded NME countries and adjusted the values by converting Indian rupees into U.S. dollars and inflating those to the POI values using the Indian wholesale price index (“WPI”) in the publication *International Financial Statistics* which is published by the International Monetary Fund.

Petitioners valued electricity using the Indian electricity rate as reported by the U.S. Energy Information Administration for the year 2000. See Petition at 12 and Exhibit I–27. We revised the U.S. dollar electricity rate calculated by Petitioners to correct errors that were made in converting Indian rupees into U.S. dollars and inflating the price.

Petitioners valued natural gas based on two articles “Govt. raises natural gas price by 20 pc,” dated July 20, 2006, and “Impact of June 2006 natural gas price hike,” dated July 2006. According to Petitioners, these articles indicate that the Indian government directive to increase the price of natural gas applies

to the Gas Authority of India Ltd. See Petition at 12–13 and Exhibit I–28 and Petitioners’ February 5, 2008, supplemental at 7 and Exhibit 7. We revised the gas price calculated by Petitioners to correct an error that was made in inflating the price.

Petitioners valued labor at \$0.83 per hour, which is the PRC wage rate listed on the Department’s website. See 19 CFR 351.408(c)(3) and the Petition at 13 and Exhibit I–33. The surrogates for electricity, gas, and labor are based on information reasonably available to Petitioners and are, therefore, acceptable for purposes of initiation.

Where a surrogate value was in effect during a period preceding the POI, Petitioners adjusted it using the Indian WPI in the publication *International Financial Statistics* which is published by the International Monetary Fund. See Petition at 12–13 and Exhibits I–27 and I–28.

Petitioners based factory overhead expenses, selling, general and administrative expenses, and profit on data for the fiscal year—ended March 31, 2007, from an Indian CWASPP producer, Suraj Stainless Ltd. See Petition at 13 and Exhibit I–29. We revised factory overhead expenses to correct errors made in calculating those expenses. See Initiation Checklist at Attachment V. We find that Petitioners’ use of this company’s information as surrogate financial data is appropriate for purposes of this initiation.

Fair Value Comparisons

Based on the data provided by Petitioners, as adjusted by the Department, there is reason to believe that imports of CWASPP from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of export price to NV, calculated in accordance with section 773(c) of the Act, the estimated dumping margins for CWASPP range from 8.36 percent to 12.70 percent. See Initiation Checklist at Attachment V.

Initiation of Antidumping Investigation

Based upon the examination of the Petition on CWASPP from the PRC, the Department finds that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of CWASPP from the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Separate Rates

In order to obtain separate-rate status in NME investigations, exporters and producers must submit a separate-rate status application. See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries (April 5, 2005) (“Separate Rates and Combination Rates Bulletin”), available on the Department’s website at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department’s website at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application will be due 60 days from publication of this initiation notice.

NME Respondent Selection and Quantity and Value Questionnaire

The Department will request quantity and value information from all known exporters identified in the Petition. The quantity and value data received from NME exporters will be used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. See *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People’s Republic of China*, 70 FR 21996, 21999 (April 28, 2005); *Initiation of Antidumping Duty Investigations: Diamond Sawblades and Parts Thereof from the People’s Republic of China and the Republic of Korea*, 70 FR 35625, 35629 (June 21, 2005); and *Initiation of Antidumping Duty Investigation: Certain Activated Carbon from the People’s Republic of China*, 71 FR 16757, 16760 (April 4, 2006). Appendix I of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters and received by the

Department no later than March 12, 2008. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration website (<http://ia.ita.doc.gov>). The Department will send the quantity and value questionnaire to those PRC companies identified in Exhibit I-6 of the Petition.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates and Combination Rates Bulletin, states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation. (Emphasis in original.)

See *Separate Rates and Combination Rates Bulletin* at 12.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(a) of the Act and 19 CFR

351.202(f), copies of the public version of the Petition have been provided to the representatives of the Government of the PRC. We will attempt to provide a copy of the public version of the Petition to the foreign producers/exporters, consistent with 19 CFR 351.203(c)(2).

U.S. International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the International Trade Commission

The ITC will preliminarily determine, no later than March 17, 2008, whether there is a reasonable indication that imports of CWASPP from the PRC are materially injuring, or threatening material injury to, the U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: February 19, 2008.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix I

Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Tariff Act of 1930 (as amended) permits us to investigate 1) a sample of exporters, producers or types of products that is statistically valid based on the information available at the time of selection, or 2) exporters and producers accounting for the largest volume and value of the subject merchandise that can reasonably be examined.

In the chart below, please provide the total quantity and total value of all your sales of merchandise covered by the scope of this investigation (See scope section of this notice), produced in the PRC and exported/shipped to the United States during the period July 1, 2007, through December 31, 2007.

Market	Total Quantity	Terms of Sale	Total Value
United States
1. Export Price Sales
2.
a. Exporter name
b. Address
c. Contact
d. Phone No.
e. Fax No.
3. Constructed Export Price Sales
4. Further Manufactured Sales

Market	Total Quantity	Terms of Sale	Total Value
Total Sales

Total Quantity:

- Please report quantity on a metric ton basis. If any conversions were used, please provide the conversion formula and source.

Terms of Sale:

- Please report all sales on the same terms (e.g. free on board at port of export).

Total Value:

- All sales values should be reported in U.S. dollars. Please indicate any exchange rates used and their respective sources.

Export Price Sales:

- Generally, a U.S. sale is classified as an export price when the first sale to an unaffiliated customer occurs before importation into the United States.
- Please include any sales exported by your company directly to the United States.
- Please include any sales exported by your company to a third-market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please **do not** include any sales of merchandise manufactured in Hong Kong in your figures.

Constructed Export Price Sales:

- Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated customer occurs after importation. However, if the first sale to the unaffiliated customer is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation.
- Please include any sales exported by your company directly to the United States.
- Please include any sales exported by your company to a third-market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.

- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please **do not** include any sales of merchandise manufactured in Hong Kong in your figures.

Further Manufactured Sales:

- Sales of further manufactured or assembled (including re-packaged) merchandise is merchandise that undergoes further manufacture or assembly in the United States before being sold to the first unaffiliated customer.
- Further manufacture or assembly costs include amounts incurred for direct materials, labor and overhead, plus amounts for general and administrative expense, interest expense and additional packing expense incurred in the country of further manufacture, as well as all costs involved in moving the product from the U.S. port of entry to the further manufacturer.

[FR Doc. E8-3642 Filed 2-25-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

Recruitment Notice for Expressions of Interest From Qualified U.S. Travel and Tourism Industry Associations

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Commerce is soliciting expressions of interest from U.S. Travel and Tourism industry associations with experience and/or core competency in self regulation to establish and implement a program to qualify inbound U.S. tour operators that meet the requirements of the China National Tourism Administration to facilitate packaged group leisure travel established by the "Memorandum of Understanding Between the Government of the People's Republic of China and the Government of the United States of America to Facilitate Outbound Tourist Group Travel from China to The United States." The

purpose of this program would be to provide quality assurance and a means for tour operators qualified under the program to be recognized by the China National Tourism Administration (CNTA) as able to do business with Chinese travel agencies approved by the CNTA to organize and market packaged group leisure travel from China to the United States.

Qualified Associations are those that are broadly representative of the U.S. travel and tourism industry, have experience in self regulation programs for the purpose of quality assurance (including the establishment of standards, systems to accept and adjudicate complaints, and procedures for membership revocation for those who do not comply), and have/or will have such programs identified as a mission of the organization.

The Memorandum of Understanding between the Government of the People's Republic of China and the Government of the United States of America to Facilitate Outbound Tourist Group Travel from China to the United States can be found at http://trade.gov/press/press_releases/2007/china-tourism-mou-english-121107.pdf.

Deadline: Expressions of interest will be accepted on an ongoing basis, and should be directed to Isabel Hill, Deputy Director for Planning and Policy, Office of Travel and Tourism Industries, U.S. Department of Commerce, Room 1003, 14th and Constitution Ave, NW., Washington, DC, 20230.

Interested Parties: Interested parties should send a letter of interest describing the interest and background of the organization as it relates to this notice. The letter should include a name, title and contact number for the individual responsible for communicating with the Department of Commerce on this matter.

Dated: February 20, 2008.

Helen N. Marano,

Director, Office of Travel and Tourism Industries.

[FR Doc. 08-850 Filed 2-21-08; 1:01 pm]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN: 0648-XF81

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a Reef Fish Advisory Panel (AP).

DATES: The meeting will convene at 9 a.m. on Tuesday, March 18, 2008 and conclude no later than 5 p.m.

ADDRESSES: The meeting will be held at the Radisson Hotel, 12600 Roosevelt Blvd., St. Petersburg, FL 33716; telephone: (727) 572-7800.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT:

Steven Atran, Population Dynamics Statistician; Gulf of Mexico Fishery Management Council; telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION: The Reef Fish AP will review draft Reef Fish Amendment 30B to the Reef Fish Fishery Management Plan. Amendment 30B contains potential management measures to define overfishing and overfished thresholds and an optimum yield (OY) target for gag, end overfishing of gag, increase the total allowable catch (TAC) of the red grouper stock to its OY level, establish recreational and commercial allocations for gag and red grouper, establish accountability measures for gag to assure compliance with ending overfishing, adjust commercial grouper quotas and recreational grouper bag limits, closed seasons, and/or size limits, reduce discards and discard mortality of groupers, establish a new reef fish marine reserve and/or extend the duration of the existing Madison-Swanson and Steamboat Lumps marine reserves, and require that federally permitted reef fish vessels comply with the more restrictive of federal or state reef fish regulations when fishing in state waters.

Copies of the agendas and other related materials can be obtained by calling (813) 348-1630.

Although other non-emergency issues not on the agendas may come before the AP for discussion, in accordance with

the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions of the AP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina Trezza at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: February 21, 2008.

Tracey L. Thompson,

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

[FR Doc. E8-3552 Filed 2-25-08; 8:45 am]

BILLING CODE 3510-22-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**Request for Public Comment on a Commercial Availability Request under the U.S.-Australia Free Trade Agreement**

February 20, 2008.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for Public Comments concerning a request for modification of the U.S.-Australia Free Trade Agreement (USAFTA) rules of origin for a viscose/polyester blended yarn.

SUMMARY: On February 1, 2008, the Chairman of CITA received a request from Gentry Mills, alleging that certain viscose rayon fiber, classified in subheading 5504.10.0000 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic or Australian industry in commercial quantities in a timely manner and requesting that CITA consider whether the USAFTA rule of origin for 52% viscose/48% polyester blended yarn, classified under HTSUS subheading 5510.90.2000 should be modified to allow the use of non-U.S. and non-Australian viscose rayon fiber. The President may proclaim a modification to the USAFTA rules of origin for textile and apparel products

after reaching an agreement with the Government of Australia on the modification. CITA hereby solicits public comments on this request, in particular with regard to whether viscose rayon fiber of HTSUS 5504.10.0000 can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by **March 27, 2008**, to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT:

Anna Flaaten, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 USC 1854); Section 203 (o)(2)(B)(i) of the United States - Australia Free Trade Agreement Implementation Act (19 U.S.C. 3805 note) (USAFTA Implementation Act); Executive Order 11651 of March 3, 1972, as amended.

BACKGROUND:

Under the USAFTA, the parties are required to eliminate customs duties on textile and apparel goods that qualify as originating goods and meet the rules of origin set out in Annex 4-A to the USAFTA. The USAFTA provides that, after consultations, the parties may agree to revise the rules of origin for textile and apparel products to address issues of availability of supply of fibers, yarns, or fabrics in the free trade area. See Article 4.2.5 of the USAFTA. In the consultations, each party must consider data presented by the other party showing substantial production of the good. Substantial production has been shown if domestic producers are capable of supplying commercial quantities of the good in a timely manner.

The USAFTA Implementation Act provides the President with the authority to proclaim modifications to the USAFTA rules of origin as are necessary to implement the agreement after complying with the consultation and layover requirements of section 104 of the USAFTA Implementation Act. See section 203(o)(2)(B)(i) of the USAFTA Implementation Act. Executive Order 11651 established CITA to supervise the implementation of textile trade agreements and authorizes the Chairman of CITA to take actions or recommend that the United States take actions necessary to implement textile trade agreements. 37 FR 4699 (March 4, 1972).

On February 1, 2008, the Chairman of CITA received a request from Gentry Mills, alleging that certain viscose rayon fiber, classified under subheading 5504.10.0000 of the HTSUS, cannot be supplied by the domestic or Australian industry in commercial quantities in a timely manner and requesting that CITA consider whether the USAFTA rule of origin for 52% viscose/48% polyester blended yarn of HTSUS subheading 5510.90.2000 should be modified to allow the use of non-U.S. and non-Australian viscose rayon fiber of HTSUS 5504.10.0000.

CITA is soliciting public comments regarding this request, particularly with respect to whether the viscose rayon fiber described above can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be received no later than March 27, 2008. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that viscose rayon fiber can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer stating that it produces viscose rayon fiber that is the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked "business confidential" from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in Room 3001 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. In addition, non-confidential versions of the request and non-confidential versions of any public comments will be posted for public review on the Office of Textiles and Apparel ("OTEXA") website (otexa.ita.doc.gov). Persons submitting comments on a request are encouraged to include a non-

confidential version and a non-confidential summary.

R. Matthew Priest,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E8-3620 Filed 2-25-08; 8:45 am]

BILLING CODE 3510-DS

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Disestablishment of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Disestablishment of Federal Advisory Committees.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), the Department of Defense gives notice that it is disestablishing the Department of Defense Retirement Board of Actuaries and the Department of Defense Education Benefits Board of Actuaries.

The Department of Defense Retirement Board of Actuaries and the Department of Defense Education Benefits Board of Actuaries are non-discretionary Federal advisory committees that are being disestablished pursuant to section 906(b) of Public Law 110-181. The responsibilities of both advisory committees will continue; however, they will be done by the Department of Defense Board of Actuaries, which was authorized by section 906(a) of Public Law 110-181.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703-601-2554, extension 128.

Dated: February 19, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8-3605 Filed 2-25-08; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Establishment of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Establishment of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), the Department of Defense gives notice that it is establishing the Department of Defense Board of Actuaries (hereafter referred to as the Board).

The Board is a non-discretionary federal advisory committee established under the authority of 10 U.S.C. 183. The Board shall: (1) Review valuations of the Department of Defense Military Retirement Fund in accordance with 10 U.S.C. 1465(c) and submit to the President and Congress, not less than once every four years, a report on the status of the Fund including such recommendations for modifications to the funding or amortization of that Fund as the Board considers appropriate and necessary to maintain that Fund on a sound actuarial basis; (2) review valuations of the Department of Defense Education Benefits Fund in accordance with 10 U.S.C. 2006(e), as amended, and make recommendations to the President and Congress on such modifications to the funding or amortization of that Fund as the Board considers appropriate to maintain that Fund on a sound actuarial basis; and (3) review valuations of such other funds as the Secretary of Defense shall specify for purpose of 10 U.S.C. 183 and make recommendations to the President and Congress on such modifications to the funding or amortization of such funds as the Board considers appropriate to maintain such funds on a sound actuarial basis. The Secretary of Defense shall ensure that the Board has access to such records regarding the Military Retirement Fund and the Department of Defense Education Benefits Fund as the Board shall require to determine the actuarial status of such funds.

The Board shall be composed of not more than three members appointed by the Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries. Members appointed by the Secretary of Defense, who are not federal officers or employees, shall serve as Special Government Employees under the authority of 5 U.S.C. 3109.

The members shall serve for a term of 15 years, except that a member of the Board appointed to fill a vacancy occurring before the end of the term for which the predecessor was appointed shall serve only until the end of such term. A member may serve after the end of the term until a successor has taken office. A member of the Board may be removed by the Secretary of Defense for

misconduct or failure to perform functions vested in the Board, and for no other reason.

Each member of the Department of Defense Retirement Board of Actuaries or the Department of Defense Education Benefits Board of Actuaries, as of the date of enactment of section 906 of Public Law 110-181, shall serve as an initial member of the Department of Defense Board of Actuaries from that date until the date otherwise provided for the completion of such individual's term as a member of the Department of Defense Retirement Board of Actuaries or the Department of Defense Education Benefits Board of Actuaries, as the case may be, unless earlier removed by the Secretary of Defense.

A member of the Board who is not an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of chapter 53 of title 5, United States Code, for each day the member is engaged in the performance of the duties of the Board. In addition, each member shall receive compensation for per diem and travel for official Board travel.

Members shall not be reappointed for successive terms. The Chairperson of the Board shall be designated by the Under Secretary of Defense for Personnel and Readiness, on behalf of the Secretary of Defense, for a five-year term.

The Board shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, and other appropriate federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Board, and shall report all their recommendations and advice to the Board for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Board nor can they report directly to the Department of Defense or any federal officers or employees who are not Board members.

SUPPLEMENTARY INFORMATION: The Committee shall meet at the call of the Board's Designated Federal Officer, in consultation with the Board's chairperson and the Under Secretary of Defense for Personnel and Readiness. The Designated Federal Officer, pursuant to DoD policy, shall be a full-

time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all board meetings and subcommittee meetings.

Pursuant to 41 CFR 102-3.105(j) and 102-3.140, the public or interested organizations may submit written statements to the Department of Defense Board of Actuaries' membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Department of Defense Board of Actuaries.

All written statements shall be submitted to the Designated Federal Officer for the Department of Defense Board of Actuaries, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Department of Defense Board of Actuaries' Designated Federal Officer, once appointed, may be obtained from the GSA's FACA Database—<https://www.fido.gov/facadatabase/public.asp>.

The Designated Federal Officer, pursuant to 41 CFR 102-3.150, will announce planned meetings of the Department of Defense Board of Actuaries. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703-601-2554, extension 128.

Dated: February 19, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8-3602 Filed 2-25-08; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Sunshine in the Government Act of

1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.65, the Department of Defense gives notice that the charter for the Board of Advisors to the President, Naval Postgraduate School (hereafter referred to as the Board) is being renewed.

The Board is a discretionary federal advisory committee established by the Secretary of Defense, pursuant to his authority in 41 CFR 102-3.50(d), to provide independent advice and recommendations on organization management, curricula, methods of instruction, facilities, and other matters of interest to Naval Graduate Education Programs.

The Board shall be composed of not more than nineteen members, who are eminent authorities in the filed of academia, business, and the defense industry. Board Members appointed by the Secretary of Defense, who are not full-time federal officers or employees, shall serve as Special Government Employees under the authority of 5 U.S.C. 3109. Board Members shall, with the exception of travel and per diem for official travel, serve without compensation.

Board Members shall be appointed on an annual basis by the Secretary of Defense and shall serve terms of four years. Following their initial four-year tour, Board Members may, at the discretion of the President Naval Postgraduate School, be considered for additional terms on the Board. The Board's Membership shall select the Board's Chairperson, who shall serve a two-year term. The Board's Chairperson shall select the Board's Vice Chairperson.

The Secretary of the Navy or designated representative may act upon the Board's advice and recommendations.

The Board shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Sunshine in the Government Act of 1976, and other appropriate federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Board, and shall report all their recommendations and advice to the Board for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Board nor can they report directly to the Department of Defense or any federal officers or employees who are not Board Members.

SUPPLEMENTARY INFORMATION: The Board shall meet at the call of the Board's Designated Federal Officer, in consultation with the Board's Chairperson and the President Naval Postgraduate School. The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all committee meetings and subcommittee meetings.

Pursuant to 41 CFR 102-3.105(j) and 102-3.140, the public or interested organizations may submit written statements to the Board of Advisors to the President, Naval Postgraduate School membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board of Advisors to the President, Naval Postgraduate School.

All written statements shall be submitted to the Designated Federal Officer for the Board of Advisors to the President, Naval Postgraduate School, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Board of Advisors to the President, Naval Postgraduate School's Designated Federal Officer can be obtained from the GSA's FACA Database—<https://www.fido.gov/facadatabase/public.asp>.

The Designated Federal Officer, pursuant to 41 CFR 102-3.150, will announce planned meetings of the Board of Advisors to the President, Naval Postgraduate School. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703-601-2554, extension 128.

Dated: February 19, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8-3482 Filed 2-25-08; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.65, the Department of Defense gives notice that it is renewing the charter for the Chief of Naval Operations Executive Panel (hereafter referred to as the Panel).

The Panel is a discretionary federal advisory committee established by the Secretary of Defense to provide the Department of Defense independent advice and recommendations on a broad array of issues relating to (1) the role of the naval power in the international strategic environment, including issues of technology, manpower, strategy and policy; (2) current and projected Navy policies and procedures to enhance the Navy's effectiveness and efficiency in execution of national and defense policy; and (3) alternative policies and postures for fulfilling the Navy's mission in the face of evolving political, economic, technological, and military circumstances.

The Panel shall be composed of not more than 40 members, who are eminent authorities in the fields of science, engineering, business and political-military. Panel members appointed by the Secretary of Defense, who are not federal officers or employees, shall serve as Special Government Employees under the authority of 5 U.S.C. 3109. Panel members shall be appointed on an annual basis by the Secretary of Defense and, with the exception of travel and per diem for official travel, they shall serve without compensation. The Chief of Naval Operations shall select the Panel's Chairperson from the total Panel membership.

The Panel shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Sunshine in the Government Act of 1976, and other appropriate federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Panel, and shall report all

their recommendations and advice to the Panel for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Panel nor can they report directly to the Department of Defense or any federal officers or employees who are not Panel members.

SUPPLEMENTARY INFORMATION: The Panel shall meet at the call of the Panel's Designated Federal Officer, in consultation with the Chief of Naval Operations and the Panel's Chairperson. The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all committee meetings and subcommittee meetings.

Pursuant to 41 CFR 102-3.105(j) and 102-3.140, the public or interested organizations may submit written statements to the Chief of Naval Operations Executive Panel membership about the Panel's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Chief of Naval Operations Executive Panel.

All written statements shall be submitted to the Designated Federal Officer for the Chief of Naval Operations Executive Panel, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Chief of Naval Operations Executive Panel Designated Federal Officer can be obtained from the GSA's FACA Database—<https://www.fido.gov/facadatabase/public.asp>.

The Designated Federal Officer, pursuant to 41 CFR 102-3.150, will announce planned meetings of the Chief of Naval Operations Executive Panel. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703-601-2554, extension 128.

Dated: February 19, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8-3483 Filed 2-25-08; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE**Office of the Secretary of Defense****Renewal of Department of Defense Federal Advisory Committees****AGENCY:** DoD.**ACTION:** Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.65, the Department of Defense gives notice that it is renewing the charter for the Defense Acquisition University Board of Visitors (hereafter referred to as the Board).

The Board is a discretionary federal advisory committee established by the Secretary of Defense to provide the Department of Defense and the President of Defense Acquisition University independent advice and recommendations on organization management, curricula, methods of instruction, facilities and other matters of interest to Defense Acquisition University. The Board, in accomplishing its mission: (a) Practitioner training; (b) career management; (c) services to enable the Acquisition, Technology and Logistics community to make well informed business decisions; and (d) deliver timely and affordable capabilities to the warfighter.

The Board shall be composed of not more than 16 members, who are distinguished members of the academia, business, and the defense industry. Board members appointed by the Secretary of Defense, who are not federal officers or employees, shall serve as Special Government Employees under the authority of 5 U.S.C. 3109. Board members shall be appointed on an annual basis by the Secretary of Defense, and the Under Secretary of Defense (Acquisition, Technology & Logistics) or designed representative shall select the Board's Chairperson from the total Board membership. In addition, the Under Secretary of Defense (Acquisition, Technology & Logistics) shall be authorized to appoint, as required, non-voting consultants to provide technical expertise to the Board.

Board members and consultants, if required, shall, with the exception of travel and per diem for official travel, serve without compensation.

The Board shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the

Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, and other appropriate federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Board, and shall report all their recommendations and advice to the Board for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Board nor can they report directly to the Department of Defense or any federal officers or employees who are not Board members.

SUPPLEMENTARY INFORMATION: The Board shall meet at the call of the Board's Designated Federal Officer, in consultation with the Board's chairperson. The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all committee meetings and subcommittee meetings.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Defense Acquisition University Board of Visitors membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Defense Acquisition University Board of Visitors.

All written statements shall be submitted to the Designated Federal Officer for the Defense Acquisition University Board of Visitors, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Defense Acquisition University Board of Visitor's Designated Federal Officer can be obtained from the GSA's FACA Database—<https://www.fido.gov/facadatabase/public.asp>.

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Defense Acquisition University Board of Visitors. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department

of Defense, 703–601–2554, extension 128.

Dated: February 19, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–3484 Filed 2–25–08; 8:45 am]

BILLING CODE 5001–06–P**DEPARTMENT OF DEFENSE****Office of the Secretary of Defense****Renewal of Department of Defense Federal Advisory Committees****AGENCY:** DoD.**ACTION:** Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.65, the Department of Defense gives notice that it is renewing the charter for the Advisory Council on Dependents' Education (hereafter referred to as the Council).

The Council is a non-discretionary federal advisory committee established by the Under Secretary of Defense for Personnel and Readiness to provide the Department of Defense and the DoD's overseas dependent schools independent advice and recommendations on general policies for the operation of the DoD overseas school system, provided information and insights from the Department of Education regarding educational programs and practices found to be effective, and advised the Director, DoDEA on the various studies and surveys conducted by and about DoDEA. The Council, in accomplishing its mission: (a) Improved the High School Initiative, a 5-year program objective to improve system-wide academic consistency; (b) improved the Special Education Initiative, a program objective to enhance services provided to DoD overseas school system students with special needs; (c) enhanced school counseling services, especially in military communities with high forward deployment rates; and (d) provided invaluable insights into effects on DoD dependent students and CONUS local educational authorities of the impending Global Defense Posture Realignment (GDPR) and the Base Realignment and Closure (BRAC) commission decisions.

The Council shall be composed of not more than 16 members, who have demonstrated an interest in the field of

primary or secondary education. Council members appointed by the Secretary of Defense, who are not federal officers or employees, shall serve as Special Government Employees under the authority of 5 U.S.C. 3109. Council members shall be appointed on an annual basis by the Secretary of Defense. In addition, the Secretary of Defense and the Secretary of Education or their designated representative shall serve as the Council's co-chair.

Individuals appointed to the Council from professional employee organizations shall be individuals designated by those organizations. Council members and consultants, if required, shall be entitled to compensation at the daily equivalent of the rate specified at the time of such service for level IV of the Executive Services under 5 U.S.C. 5315. Council members shall be entitled to compensation for travel and per diem for official travel.

The Council shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, and other appropriate federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Council, and shall report all their recommendations and advice to the Council for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Council nor can they report directly to the Department of Defense or any federal officers or employees who are not Council members.

SUPPLEMENTARY INFORMATION: The Council shall meet at the call of the Council's Designated Federal Officer, in consultation with the Council's chairperson. The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all committee meetings and subcommittee meetings.

Pursuant to 41 CFR 102-3.105(j) and 102-3.140, the public or interested organizations may submit written statements to the Advisory Council on Dependents' Education membership about the Council's mission and functions. Written statements may be submitted at any time or in response to

the stated agenda of planned meeting of the Advisory Council on Dependents' Education.

All written statements shall be submitted to the Designated Federal Officer for the Advisory Council on Dependents' Education, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Advisory Council on Dependents' Education's Designated Federal Officer can be obtained from the GSA's FACA Database—<https://www.fido.gov/facadatabase/public.asp>.

The Designated Federal Officer, pursuant to 41 CFR 102-3.150, will announce planned meetings of the Advisory Council on Dependents' Education. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703-601-2554, extension 128.

Dated: February 19, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8-3485 Filed 2-25-08; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Meetings for the Supplement to the Draft Environmental Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS) for a Proposal To Enhance Training, Testing, and Operational Capability Within the Hawaii Range Complex (HRC)

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and regulations implemented by the Council on Environmental Quality (40 CFR Parts 1500-1508), and Presidential Executive Order 12114, the Department of the Navy (Navy) prepared and filed with the U.S. Environmental Protection Agency on February 15, 2008, a Supplement to the Draft EIS/OEIS for a Proposal to Enhance Training, Testing, and Operational Capability within the HRC. The Supplement to the Draft EIS/OEIS

evaluates the potential for behavioral harassment of marine mammals incidental to the use of mid-frequency active sonar during Navy training and testing within the HRC. The methodology used in the Supplement is a modification of the methodology previously used in the Draft EIS/OEIS. The Supplement to the Draft EIS/OEIS also addresses a change in the number of sonar hours for each of the alternatives and the potential effects of an additional alternative. A Notice of Intent for the Supplement to the Draft EIS/OEIS was published in the **Federal Register** on January 17, 2008 (73 FR 3242).

The Navy will conduct four public meetings to receive oral and written comments on the Supplement to the Draft EIS/OEIS. Federal agencies, State agencies, and interested individuals are invited to be present or represented at the public meetings. This notice announces the dates and locations of public meetings for the Supplement to the Draft EIS/OEIS.

Dates and Addresses: Information sessions and receipt of public comments will be held at each of the locations listed below between 5 p.m. to 9 p.m. The information sessions will allow individuals to review the Supplement to the Draft EIS/OEIS in an open house format. Navy and NMFS representatives will be available during the information sessions to clarify information related to the Supplement to the Draft EIS/OEIS. Oral comments from the public will also be taken during the session. Public meetings will be held on the following dates and at the following locations in Hawaii:

1. March 13, 2008 at the Kauai Community College Cafeteria, 3-1901 Kaunualii Highway, Lihue, Kauai;
2. March 14, 2008 at Maui Waena Intermediate School 795 Onehee Avenue, Kahului, Maui;
3. March 17, 2008 at Disabled American Veterans Hall 2685 North Nimitz Highway, Honolulu, Oahu;
4. March 18, 2008, Hilo Hawaiian Hotel, 71 Banyan Drive, Hilo, Hawaii.

FOR FURTHER INFORMATION CONTACT: Public Affairs Officer, Pacific Missile Range Facility, P.O. Box 128, Kekaha, Kauai, Hawaii, 96752-0128, ATTN: HRC EIS/OEIS, voice mail 1-866-767-3347, facsimile 808-335-4520.

SUPPLEMENTARY INFORMATION: The Navy previously conducted public hearings on the Draft EIS/OEIS in August 2007 following publication of the Notice of Availability in the **Federal Register** on July 27, 2007 (72 FR 41324). Since the publication of the Draft EIS/OEIS, Navy, in coordination with NMFS, has

conducted a re-evaluation of the analysis concerning the analytical methodology used in the July 2007 document to assess the potential for behavioral harassment of marine mammals incidental to the use of mid-frequency active sonar during Navy training and testing. Modifications to this analytical methodology have led Navy to determine that the preparation of a Supplement to the Draft EIS/OEIS is appropriate. Besides the modifications to the analytical methodology, the Supplement to the Draft EIS/OEIS incorporates changes in sonar hours for each alternative. The Supplement also includes the evaluation of the potential effects of a new alternative. Alternative 3 (which is also identified as the Navy's preferred alternative) includes all of the training and testing activities identified for Alternative 2, but with reduced mid-frequency sonar hours (the same number of sonar hours identified for the No-action Alternative).

The Proposed Action assessed in the Supplement to the Draft EIS/OEIS is unchanged from the Draft EIS/OEIS and involves increasing the usage and enhancing the capabilities of the HRC with the purpose of achieving and maintaining Fleet readiness and to conduct current, emerging, and future training and research, development, test, and evaluation (RDT&E) operations. This action is consistent with U.S. Code Title 10, section 5062.

The Supplement to the Draft EIS/OEIS has been distributed to various Federal, State, and local agencies, as well as other interested individuals and organizations. Additionally, copies of the Supplement to the Draft EIS/OEIS have been distributed to the following libraries in Hawaii for public review: Kahului Public Library, 90 School Street, Kahului, Maui, Hawaii 96732; Wailuku Public Library, 251 High Street, Wailuku, Maui, Hawaii 96793; Hilo Public Library, 300 Waiianuenue Avenue, Hilo, Hawaii, Hawaii 96720; Hawaii State Library, Hawaii and Pacific Section Document Unit, 478 South King Street, Honolulu, Oahu, Hawaii 96813-2994; Lihue Public Library, 4344 Hardy Street, Lihue, Kauai, Hawaii 96766; Waimea Public Library, P.O. Box 397, Waimea, Kauai, Hawaii 96766; Princeville Public Library, 4343 Emmalani Drive, Princeville, Kauai, Hawaii 96722.

An electronic copy of both the Supplement and the Draft EIS/OEIS are also available for public viewing at: <http://www.govsupport.us/hrc>. Single copies of the Supplement to the Draft EIS/OEIS are available upon written request by contacting Public Affairs

Officer, Pacific Missile Range Facility, P.O. Box 128, Kekaha, Kauai, Hawaii, 96752-0128, ATTN: HRC EIS/OEIS, voice mail 1-866-767-3347, facsimile 808-335-4520.

Federal, State, and local agencies and interested parties are invited to be present or represented at the public meetings. Written comments can also be submitted during these meetings. Oral statements will either recorded or be heard and transcribed by a stenographer. All statements, both oral and written, will become part of the public record on the Supplement to the Draft EIS/OEIS and will be addressed in the Final EIS/OEIS. Equal weight will be given to both oral and written statements.

In the interest of available time, and to ensure all who wish to give an oral statement at the public meetings have the opportunity to do so, each speaker's comments will be limited to three (3) minutes. If a long statement is to be presented, it should be summarized at the public meeting and the full text submitted in writing either at the meeting or mailed to Public Affairs Officer, Pacific Missile Range Facility, P.O. Box 128, Kekaha, Kauai, Hawaii, 96752-0128, ATTN: HRC EIS/OEIS, faxed to 808-335-4520, or submitted via e-mail to deis_hrc@govsupport.us.

All written comments must be post marked or received by April 7, 2008, to ensure they become part of the official record. All comments will be addressed in the Final EIS/OEIS.

Dated: February 20, 2008.

T.M. Cruz,

Lieutenant, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8-3633 Filed 2-25-08; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to delete two Systems of Records.

SUMMARY: The Department of the Navy is deleting two system of records in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 27, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS-36), 2000 Navy Pentagon, Washington, DC 20350-2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685-6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Navy proposes to delete two system of records notices from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems records.

Dated: February 19, 2008.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

N11101-2

SYSTEM NAME:

Family Housing Requirements Survey Records System (June 8, 1999, 64 FR 30501).

REASON:

Program discontinued and all records have been destroyed.

N11103-01

SYSTEM NAME:

Housing Referral Services Record System (February 22, 1993, 58 FR 10817).

REASON:

Program discontinued and all records have been destroyed.

[FR Doc. E8-3600 Filed 2-25-08; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF EDUCATION

The Federal Student Aid Programs Under Title IV of the Higher Education Act of 1965, as Amended

AGENCY: Department of Education.

ACTION: Notice inviting letters of application for participation in the Quality Assurance Program.

SUMMARY: The Secretary of Education invites institutions of higher education that may wish to participate in the Quality Assurance Program, under

section 487A(a) of the Higher Education Act of 1965, as amended (HEA), to submit a letter of application to participate in the program.

DATES: Letters of application may be submitted any time after February 26, 2008.

ADDRESSES: Institutions may apply to participate in the Quality Assurance Program by mailing a letter of application to Barbara Mroz, Federal Student Aid, U.S. Department of Education, 830 First Street, NE., Washington, DC 20202-5232 or by submitting a letter of application electronically to Barbara Mroz at: Barbara.Mroz@ed.gov.

FOR FURTHER INFORMATION CONTACT: Warren Farr, Federal Student Aid, U.S. Department of Education, 830 First Street, NE., UCP-3, Room 83G4, Washington, DC 20202-5232; telephone: (202) 377-4380, or via the Internet: Warren.Farr@ed.gov.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audio tape or computer diskette) on request by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Background

Institutions of higher education are invited to join the Department in an effort to simplify regulations and administrative processes for the Federal Student Aid Programs authorized by Title IV of the Higher Education Act of 1965, as amended (HEA). The vision of the Quality Assurance Program, with 151 institutions currently participating, is to provide tools that help all institutions of higher education participating in the Federal Student Aid Programs to promote better service to students, compliance with title IV requirements, and continuous improvement in program delivery. The Quality Assurance Program encourages participating institutions to develop and implement their own comprehensive systems to verify student financial aid application data, and continually assess compliance with Federal requirements.

The Secretary is authorized to waive for any institution participating in the Quality Assurance Program any regulations dealing with reporting or verification requirements, thus providing participating institutions with regulatory flexibility for the verification of student data, and encouraging

alternative approaches that improve award accuracy.

The Secretary believes that the process of continuous improvement fostered by the institutions already participating in the Quality Assurance Program has enhanced not only the accuracy of student aid awards and payments, but also the management of student aid offices and the delivery of services to students.

Features of the Program

The mission of the Quality Assurance Program is to help schools attain, sustain, and advance exceptional student aid delivery and service excellence. For the past 22 years, the program has achieved its goal by providing participating institutions with the flexibility to design an institutional verification program that more directly focuses on their own population segments. It has also helped them target areas of administration that affect award accuracy or that may leave the institution vulnerable to potential liabilities.

The Quality Assurance Program has given institutions the tools and techniques to assess, measure, analyze, correct and prevent problems, and has provided them with data on which to base their decisions for solving problems and addressing verification issues.

The Secretary encourages institutions participating in the Quality Assurance Program to evaluate their student aid or verification policies and procedures and adopt improvements in those procedures. Institutions measure performance and test the effectiveness of their verification program by using the Department's Institutional Student Information Record (ISIR) Analysis Tool. The ISIR Analysis Tool is a web-based software product that provides financial aid administrators with an in-depth analysis of their applicant population. It allows them to see not only which elements on the student's Free Application for Federal Student Aid (FAFSA) changed when verified, but also what impact these changes have upon the student's Expected Family Contribution (EFC) and aid eligibility. This analysis helps financial aid administrators develop a targeted institutional verification program, which ultimately makes the financial aid process easier for students, while ensuring accountability and integrity.

The Quality Assurance Program also helps institutions make improvements beyond verification and basic compliance. By using the Federal Student Aid Assessments, schools can set goals for continuous improvement in

all areas of financial aid delivery. One key benefit of the program is the partnership between the Department and the participating institutions. Both parties become engaged in promoting continuous improvement in the administration and delivery of the Federal Student Aid Programs, thereby enhancing service to students.

Invitation for Applications

The Secretary invites institutions of higher education that administer one or more Title IV programs to submit a letter of application to participate in the Quality Assurance Program. Institutions that currently participate in the program may continue to do so without submitting a new letter of application. The Secretary will review the letter of application, which should reflect the institution's commitment to the goals of the Quality Assurance Program, as determined by the Secretary. In the letter of application, the institution should state its Quality Assurance plan as well as what it will measure to achieve the following goals in detail:

- Attain and sustain compliance and continuous improvement in program delivery, and better service to students;
- Improve the accuracy of institutional verification programs;
- Increase institutional flexibility in managing student aid funds, while maintaining accountability for the proper use of those funds; and
- Encourage the development of innovative management approaches that advance process quality.

Review Process

The Department will screen prospective participants to determine if the institution meets general Title IV eligibility requirements and has a demonstrated record of program compliance. The Secretary may also consider the institution's performance with regard to financial responsibility, administrative capability, program review findings, audit findings, etc. as outlined in the regulations and in the Federal Student Aid Handbook.

Electronic Access to This Document

You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-

888-293-6498; or in the Washington, DC area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Program Authority: 20 U.S.C. 1094a.

Dated: February 21, 2008.

Lawrence A. Warder,

Acting Chief Operating Officer, Federal Student Aid.

[FR Doc. E8-3616 Filed 2-25-08; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC08-583-000; FERC-583]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

February 5, 2008.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments on the collection of information are due April 14, 2008.

ADDRESSES: Copies of sample filings of the proposed collection of information can be obtained from the Commission's Documents & Filing Web site (<http://www.ferc.gov/docs-filings/elibrary.asp>) or by contacting the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director Officer, ED-34, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC08-583-000. Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission's submission guidelines. Complete filing instructions and acceptable filing formats are available at (<http://www.ferc.gov/help/submission-guide/electronic-media.asp>). To file the document electronically, access the Commission's Web site and click on Documents & Filing, E-Filing (<http://www.ferc.gov/docs-filing/efiling.asp>), and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact ferconlineSupport@ferc.gov or

toll-free at (866) 208-3676 or for TTY, contact (202) 502-8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502-8415, by fax at (202) 273-0873, and by e-mail at: michael.miller@ferc.gov.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC-583 "Annual Kilowatt Generating Report (Annual Charges)" (OMB No. 1902-0136) is used by the Commission to implement the statutory provisions of section 10(e) of the Federal Power Act (FPA), part I, 16 U.S.C. 803(e) which requires the Commission to collect annual charges from hydropower licensees for, among other things, the cost of administering part I of the FPA and for the use of United States dams. In addition, the Omnibus Budget Reconciliation Act of 1986 (OBRA) authorizes the Commission to "assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year." The information is collected annually and used to determine the amounts of the annual charges to be assessed licensees for reimbursable government administrative costs and for the use of government dams. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 11.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
599	1	2	1,198

Estimated cost burden to respondents is \$72,792. (1,198 hours/2,080 hours per year times \$126,384 per year average per employee = \$72,792). The cost per respondent is \$122 (rounded off).

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information;

(3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as

administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of

the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology e.g. permitting electronic submission of responses.

Kimberly D. Bose,
Secretary.

[FR Doc. E8-3548 Filed 2-25-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC08-523-000, FERC-523]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

February 20, 2008.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104-13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments on the collection of information are due April 25, 2008.

ADDRESSES: Copies of sample filings of the proposed information collection can

be obtained from the Commission's Web site (<http://www.ferc.gov/docs-filings/elibrary.asp>) or from the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, ED-34, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filing, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 and refer to Docket No. IC08-523-000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at <http://www.ferc.gov>, choose the Documents & Filings tab, click on eFiling, then follow the instructions given. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the "eLibrary" link. For user assistant, contact fercolinesupport@ferc.gov or toll-free at (866) 208-3676. or for TTY, contact (202) 502-8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502-8415, by fax at (202) 273-0873, and by e-mail at michael.miller@ferc.gov.

SUPPLEMENTARY INFORMATION: The information collection under the requirements of FERC-523

"Applications for Authorization of Issuance of Securities."

Under Federal Power Act (FPA) section 204, 16 U.S.C. 824c:

no public utility or licensee shall issue any security, or assume any obligation or liability as guarantor, indorser, surety, or otherwise in respect of any security of another person, unless and until, and then only to the extent that, upon application by the public utility, the Commission by order authorized such issue or assumption of the liability. The Commission shall make such order if it finds that such issue or assumption (a) is for lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility and which will not impair its ability to perform that service, and (b) is reasonably necessary or appropriate for such purposes.* * *

The Commission uses the information contained in filings to determine its acceptance and/or rejection for granting applications for authorization to either issue securities or to assume an obligation or liability by the public utilities and their licensees who make these applications.

The Commission implements this statute through its regulations, which are found at 18 CFR Part 34; sections 131.43 and 131.50 of 18 CFR Part 131 prescribe the required format for the filings. The information is filed electronically.

Action: The Commission is requesting a three-year extension of the current expiration date with no changes to the current reporting requirements.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of responses annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
60	1	88	5280

The estimated total cost to respondents is \$320,821 [5,280 hours divided by 2080 hours¹ times \$126,384² equals \$320,821]. The cost of filing FERC-523, per respondent, is \$5,347 (rounded-off).

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information

including: (1) Reviewing instructions; (2) developing, acquiring, installing, using technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable filing instructions and requirements; (4) training personnel to respond to this collection of information; (5) searching data sources; (6) completing and reviewing the collection of information;

and (7) transmitting, or otherwise disclosing the information. The cost estimate for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the

¹ Number of hours an employee works each year.

² Average annual salary per employee.

whole organization rather than any one particular function or activity.

Comments are invited on the accuracy of the agency's burden estimate of the proposed information collection, including the validity of the methodology and assumptions used to calculate the reporting burden; and ways to enhance the quality, utility and clarity of the information to be collected.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. E8-3566 Filed 2-25-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1490-046]

Brazos River Authority; Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

February 5, 2008.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type*: Approval of Contract for Use of Project Facilities and for the Sale of Project Power for a Period Extending Beyond the Term of License.

b. *Project No*: 1490-046.

c. *Date Filed*: December 6, 2007, supplemented January 22, 2008.

d. *Applicant*: Brazos River Authority (the Authority).

e. *Name of Project*: Morris Sheppard Dam Project.

f. *Location*: The project is located on the Brazos River, in Palo, Pinto, Young, and Stephans Counties, Texas.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 815 (2000).

h. *Applicant Contact*: John A. Whittaker, IV, Winston & Strawn, LLP, 1700 K Street, NW., Washington, DC 20006-3817, (202) 282-5766.

i. *FERC Contact*: Hillary Berlin at (202) 502-8915, or e-mail Hillary.Berlin@FERC.gov.

j. *Deadline for filing comments and motions*: February 26, 2008.

All documents (original and eight copies) should be filed with: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at <http://www.ferc.gov>

under the "e-Filing" link. Please include the project number (P-1490-046) on any comments or motions filed.

k. *Description of Application*: The Authority filed a request for approval of a Facility Use Agreement (the Agreement) between the Authority and the Brazos Electric Power Cooperative, Inc. (the Cooperative). The Authority seeks approval of the Agreement under the requirements of standard Article 5 of the Authority's license issued September 14, 1989 (48 FERC ¶ 62,190) and section 22 of the Federal Power Act (FPA), 16 U.S.C. 815 (2000), as a contract for the sale of project power extending beyond the term of the project license. The license expires on August 31, 2019.

Under license Article 5, the Authority is required to obtain and retain title in fee in, or the right to use in perpetuity, project property necessary to fulfill project purposes, and the disposal of project property rights once acquired is subject to Commission approval. Section 22 of the FPA provides that contracts for the sale and delivery of power for periods extending beyond the termination date of a license may be entered into upon the joint approval of the Commission and the appropriate state public service Commission or other similar authority in the state in which the sale or delivery of power is made.

Under the Agreement, the Cooperative would be given the right and the responsibility, at its own cost, to operate, maintain, and repair the project's hydroelectric generating facilities and to use the project's power, subject to certain restrictions and rights reserved to the Authority. In exchange, the Cooperative would make annual payments to the Authority and would reimburse the Authority for costs incurred by the Authority: (1) Related to compliance and administration of the project's license and compliance with other regulatory requirements with respect to the project's generating facilities; and (2) associated with the Authority obtaining a new license for the project, to the extent related to the project's generating facilities. The Authority would retain ownership of all project facilities throughout the 30-year term of the Agreement, which is subject to a 10-year extension at the option of the Cooperative. The Agreement would supersede and replace the current contractual arrangements between the Authority and the Cooperative, which pertain to project operation and maintenance and the sale of project power.

l. *Location of Application*: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. 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. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or e-mail FERCOnlineSupport@ferc.gov, for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

o. Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments*: Federal, state, and local agencies are invited to file

comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E8-3549 Filed 2-25-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07-208-001]

Rockies Express Pipeline LLC; Notice of Amendment

February 5, 2008.

Take notice that on January 25, 2008, Rockies Express Pipeline LLC (Rockies Express), 370 Van Gordon Street, Lakewood, Colorado 80228, filed an application in Docket No. CP07-208-001, pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations requesting authorization to amend its application to reflect moving the location of its proposed Hamilton Compressor Station in Warren County, Ohio and realigning the pipeline route for 3.9 miles in Warren and Butler Counties, Ohio to adjust for the move. Rockies Express states that the move is for environmental reasons and will result in de minimus change in the cost of its REX-East project, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Any questions regarding this application should be directed to Skip George, Manager of Regulatory, Rockies Express Pipeline LLC, P.O. Box 281304, Lakewood, Colorado 80228-8304, phone (303) 914-4969.

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 and 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. On or before the comment date, it is not necessary to serve motions to intervene or protest on persons other than the Applicant.

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 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 the original and 14 copies of the protest or intervention to the Federal Energy Regulatory

Commission, 888 First Street, NE., Washington, DC 20426.

Comment Date: February 26, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8-3551 Filed 2-25-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 77-187]

Pacific Gas and Electric Company; Notice of Application for Temporary Amendment of License, Soliciting Comments, Motions To Intervene and Protests

February 5, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Type of Application:* Amendment of license request for temporary withdrawal and restoration of water.
- b. *Project No.:* 77-187.
- c. *Date Filed:* January 31, 2008.
- d. *Applicant:* Pacific Gas and Electric Company.
- e. *Name of Project:* Potter Valley Hydroelectric Project.
- f. *Location:* On the Eel River and East Branch Russian River, in Lake and Mendocino Counties, California.
- g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.
- h. *Applicant Contact:* Mr. David Moller, Director Hydro Licensing, Pacific Gas and Electric Company, P.O. Box No. 770000, San Francisco, CA 94177; (415) 973-4480.
- i. *FERC Contact:* CarLisa Linton-Peters, telephone (202) 502-8416; e-mail: carlisa.linton-peters@ferc.gov.
- j. *Deadline for filing comments, motions to intervene and protests is* February 26, 2008.

Please include the project number (P-77) on any comments or motions filed. All documents (an original and eight copies) must be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Motions to intervene, protests, comments and recommendations may be filed electronically via the Internet in lieu of paper filings, see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "e-filing" link. The Commission strongly encourages electronic filings.

The Commission's Rules of Practice and Procedure require all intervenors

filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* Pacific Gas and Electric Company (licensee) is requesting that its license for the Potter Valley Project be temporarily amended to allow the licensee to provide additional water to applicant, Potter Valley Irrigation District (PVID) during the period of March 15 to April 14, 2008. The PVID requests additional water (up to 50 cubic feet per second) for frost protection of commercial crops in Potter Valley. PG&E's request is subject to the requirement that PVID timely and fully restore to Lake Pillsbury the additional water used during this time period, resulting in a water-neutral situation. The amount of water provided to PVID will be restored starting April 15 and completed by June 1, 2008.

l. *Location of the Application:* A copy of the filing is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also be viewed on the Commission's Web site at <http://ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at: <http://www.ferc.gov/docsfiling/subscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call toll-free at 1-866-208-3676 or e-mail ferconlinesupport@ferc.gov, or for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address listed in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the

appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application (see item (j) above).

o. Any filing must bear in all capital letters the title "COMMENTS", "PROTEST", "MOTION TO INTERVENE", or "RECOMMENDATIONS", as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E8-3546 Filed 2-25-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08-63-000]

Tennessee Gas Pipeline Company; Notice of Application

February 5, 2008.

Take notice that on January 24, 2008, Tennessee Gas Pipeline Company (Tennessee), 1001 Louisiana, Houston, Texas 77002, filed in Docket No. CP08-63-000, an application pursuant to section 7 of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations seeking authorization to construct the Fitchburg Expansion Project (Project), all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online

service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 420-5589.

Specifically, the Project involves replacing approximately 5.15 miles of six-inch pipe with twelve-inch pipe on Tennessee's Line 268-100, the Fitchburg Lateral (Lateral), in Lunenburg, Worcester County, Massachusetts. The expansion of the Lateral will allow Tennessee to provide 12,300 Dth/d of firm transportation service for the Massachusetts Development Financial Agency (MassDevelopment). Additionally, Tennessee will install a pig launcher at the beginning of the Lateral and a pig receiver at the terminus of the Lateral. Tennessee requests authorization to construct, install, modify, and operate the proposed facilities in order to expand the capacity on its pipeline system to provide the requested service to MassDevelopment. Tennessee's total estimated cost for construction of the Project is \$10.7 million.

Any questions regarding this application should be directed to Jay V. Allen, Senior Counsel, 1001 Louisiana, Houston, Texas 77002, at (713) 420-5589.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and

Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link at <http://www.ferc.gov>. The Commission strongly encourages intervenors to file electronically. 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.

Comment Date: February 26, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8-3547 Filed 2-25-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

February 20, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER08-221-002.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits response to 1/11/08 deficiency letter regarding PJM's 11/15/07 filing of an executed interconnection service agreement among PJM, Ameresco Stafford LLC and Virginia Electric and Power Company.

Filed Date: 02/14/2008.

Accession Number: 20080219-0092.

Comment Date: 5 p.m. Eastern Time on Thursday, March 6, 2008.

Docket Numbers: ER08-411-002.

Applicants: Tiger Natural Gas, Inc.

Description: Tiger Natural Gas, Inc. submits Asset Appendix—2 pages and FERC Electric Tariff-Substitute Original Sheet.

Filed Date: 02/14/2008.

Accession Number: 20080219-0093.

Comment Date: 5 p.m. Eastern Time on Thursday, March 6, 2008.

Docket Numbers: ER08-516-001.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits revisions to the Reliability Pricing Model at Section 510 *et al.* of the Attachment DD of the PJM Open Access Transmission Tariff in order to reflect recently increased construction cost.

Filed Date: 02/14/2008.

Accession Number: 20080219-0094.

Comment Date: 5 p.m. Eastern Time on Thursday, March 6, 2008.

Docket Numbers: ER08-527-001.

Applicants: Public Service Company of Colorado.

Description: Public Service Company of Colorado submits First Revised Sheets 12 *et al.* to its First Revised Schedule FERC 44 *et al.*, as an errata to its 2/1/08 filing.

Filed Date: 02/14/2008.

Accession Number: 20080219-0095.

Comment Date: 5 p.m. Eastern Time on Thursday, March 6, 2008.

Docket Numbers: ER08-563-000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits an executed interconnection service agreement among PJM, Shaffer Mountain Wind LLC and Pennsylvania Electric Company a FirstEnergy Company.

Filed Date: 02/14/2008.

Accession Number: 20080219-0091.

Comment Date: 5 p.m. Eastern Time on Thursday, March 6, 2008.

Docket Numbers: ER08-565-000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Co. submits agreements for additional capacity with Wellhead Power Panoche, LLC.

Filed Date: 02/15/2008.

Accession Number: 20080219-0147.

Comment Date: 5 p.m. Eastern Time on Friday, March 7, 2008.

Docket Numbers: ER08-566-000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits filing and acceptance two new agreements between PG&E and the Western Area Power Administration.

Filed Date: 02/15/2008.

Accession Number: 20080219-0096.

Comment Date: 5 p.m. Eastern Time on Friday, March 7, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the

eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email 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.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8-3565 Filed 2-25-08; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No.: 2677-019]

City of Kaukauna, Wisconsin; Notice Soliciting Scoping Comments

February 5, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2677-019.

c. *Date Filed:* August 29, 2007.

d. *Applicant:* City of Kaukauna, Wisconsin.

e. *Name of Project:* Badger-Rapide Croche Hydroelectric Project.

f. *Location:* On the Fox River in Outagamie County, near the city of Kaukauna, Wisconsin. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mike Pedersen, Kaukauna Utilities, 777 Island Street, P.O. Box 1777, Kaukauna, WI 54130-7077, 920-462-0220, or Arie DeWaal, Mead & Hunt, Inc., 6501 Watts Road, Madison, WI 53719, 608-273-6380.

i. *FERC Contact:* John Smith (202) 502-8972 or john.smith@ferc.gov.

j. *Deadline for Filing Scoping Comments:* March 6, 2008.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "e-Filing" link.

k. This application is not ready for environmental analysis at this time.

l. The existing project works consist of the following two developments:

As licensed, the existing Badger Development utilizes the head created by the 22-foot-high Army Corps of Engineers (Corps) Kaukauna dam and consists of: (1) A 2,100-foot-long, 100-foot-wide power canal that bifurcates into a 260-foot-long, 200-foot-wide canal and a 250-foot-long, 80-foot-wide canal leading to; (2) the Old Badger powerhouse containing two 1,000-kilowatt (kW) generating units for a total installed capacity of 2,000 kW; and (3) the New Badger powerhouse containing two 1,800-kilowatt (kW) generating units for a total installed capacity of 3,600 kW; and (4) appurtenant facilities.

As licensed, the existing Rapide Croche Development utilizes the head created by the 20-foot-high Corps Rapide Croche dam, located approximately 4.5 miles downstream from the Badger Development and consists of: (1) A powerhouse, located on the south end of the dam, containing four 600-kW generating units for a total installed capacity of 2,400 kW; (2) the 5-mile-long, 12-kV transmission line (serving both developments); and (3) appurtenant facilities.

The license application also indicates that flashboards are used at the Kaukauna (6-inch-high) and Rapide-Croche (30-inch-high) dams to provide additional head for project generation.

The proposed project would include decommissioning the Old Badger and New Badger developments and constructing a new 7-MW powerhouse about 150 feet upstream from the existing New Badger plant site.

Proposed project works would consist of: (1) A modified power canal leading to; (2) a new powerhouse with integral intake; and (3) two identical 3.5- to 3.6-MW horizontal Kaplan "S" type turbines. The Old Badger development would be converted to an alternative use. The New Badger development would be decommissioned, demolished, and removed. The existing service road would be demolished and removed. The tailrace area associated with the existing Old Badger development would be filled with soil. A new service road would be constructed over the filled area. No significant changes are proposed for the Rapide Croche development.

The existing Badger and Rapide Croche developments currently operate in run-of-river mode and as proposed, the new project would continue to operate in a run-of-river mode.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h above.

n. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. Scoping Process

The Commission staff intends to prepare a single environmental assessment (EA) for the Badger-Rapide Croche Hydroelectric Project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Commission staff does not propose to conduct any on-site scoping meetings at this time. Instead, we are soliciting comments, recommendations, and information, on the scoping document issued on February 5, 2008.

Copies of the scoping document outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list and the applicant's distribution list. Copies of the scoping document may 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, call 1-866-208-3676 or for TTY, (202) 502-8659.

Kimberly D. Bose,
Secretary.

[FR Doc. E8-3550 Filed 2-25-08; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-RCRA-2007-0903; FRL-8533-6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Requirements and Exemptions for Specific RCRA Wastes (Renewal), EPA ICR Number 1597.08, OMB Control Number 2050-0145

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before March 27, 2008.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA-HQ-RCRA-2007-0903, to (1) EPA, either online using <http://www.regulations.gov> (our preferred method), or by e-mail to rcra-docket@epa.gov, or by mail to: RCRA Docket (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, 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: Tab Tesnu, Office of Solid Waste (mail code 5303P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703-605-0636; fax number: 703-308-8617; e-mail address: tesnu.tab@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 September 19, 2007 (72 FR 53562), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-RCRA-2007-0903, which is available for online viewing at <http://www.regulations.gov>, or in person viewing at the Resource Conservation and Recovery Act (RCRA) Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270.

Use EPA's electronic docket and comment system at <http://www.regulations.gov>, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at <http://www.regulations.gov> as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to <http://www.regulations.gov>.

Title: Requirements and Exemptions for Specific RCRA Wastes (Renewal).

ICR numbers: EPA ICR No. 1597.08, OMB Control No. 2050-0145.

ICR Status: This ICR is scheduled to expire on February 29, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR

part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR revises and consolidates the burden contained in two existing approved ICRs: "Requirements and Exemptions for Specific RCRA Wastes," ICR number 1597.06 (OMB Control Number 2050-0145), and the "Used Oil Management Standards Recordkeeping and Reporting Requirements," ICR number 1286.07 (OMB Control Number 2050-0124).

In 1995, EPA promulgated regulations in 40 CFR part 273 that govern the collection and management of widely-generated hazardous wastes known as "Universal Wastes." Universal Wastes are wastes that are generated in non-industrial settings by a vast community, and are present in non-hazardous waste management systems. Examples of Universal Wastes include certain batteries, pesticides, mercury-containing lamps and thermostats. The part 273 regulations are designed to separate Universal Waste from the municipal waste stream by encouraging individuals and organizations to collect these wastes and to manage them in an appropriate hazardous waste management system. EPA distinguishes two types of handlers of Universal Wastes: Small quantity handlers of Universal Waste (SQHUW) and large quantity handlers of Universal Waste (LQHUW). SQHUWs do not accumulate more than 5,000 kg of any one category of Universal Waste at one time, while LQHUWs may accumulate quantities at or above this threshold. More stringent requirements are imposed on LQHUWs because of greater potential environmental risks.

In 2001, EPA promulgated regulations in 40 CFR part 266 that provide increased flexibility to facilities managing wastes commonly known as "Mixed Waste." Mixed Waste are low-level mixed waste (LLMW), and naturally occurring and/or accelerator-produced radioactive material (NARM) containing hazardous waste. These wastes are also regulated by the Atomic Energy Act. As long as specified eligibility criteria and conditions are met, LLMW and NARM are exempt from the definition of hazardous waste as defined in Part 261. Although these eligible wastes are exempt from RCRA manifest, transportation, and disposal requirements, they must still comply with the manifest, transportation, and

disposal requirements under the NRC (or NRC-Agreement State) regulations.

And finally, in 1992, EPA finalized management standards for used oils destined for recycling. The Agency codified the used oil management standards in part 279 of 40 CFR. The regulations at 40 CFR part 279 establish, among other things, streamlined procedures for notification, testing, labeling, and recordkeeping. They also establish a flexible self-implementing approach for tracking off-site shipments that allow used oil handlers to use standard business practices (e.g., invoices, bill of lading). In addition, part 279 sets standards for the prevention and cleanup of releases to the environment during storage and transit. EPA believes these requirements will minimize potential mismanagement of used oils, while not discouraging recycling.

Burden Statement: The annual public reporting burden for this collection of information is estimated to average 4.9 hours per response. The total public recordkeeping burden for the Universal Waste requirements is estimated to average 0.2 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: Private Sector and State, Local, or Tribal Governments.

Estimated Number of Respondents: 123,330.

Frequency of Response: Biennially, On Occasion.

Estimated Total Annual Hour Burden: 651,135.

Estimated Total Annual Cost: \$30,746,047 which includes \$10,004,415 annualized capital and O&M costs and \$20,741,632 annualized labor costs.

Changes in the Estimates: There is an increase of 457,901 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR

Burdens, and an increase of \$10,000,415 in annualized capital/start-up and operations and maintenance costs. This increase is due to the consolidation of this ICR with the Used Oil Management Standards Recordkeeping and Reporting Requirements ICR. In addition, the 2005 final rule on Mercury-Containing Equipment also increased the burden for the Universal Waste portion of this ICR.

Dated: February 20, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8-3611 Filed 2-25-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8533-5]

Science Advisory Board Staff Office; Clean Air Scientific Advisory Committee (CASAC); Notification of a Public Advisory Committee Meeting and Teleconference of the CASAC Oxides of Nitrogen (NO_x) & Sulfur Oxides (SO_x) Secondary NAAQS Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Clean Air Scientific Advisory Committee Oxides of Nitrogen (NO_x) and Sulfur Oxides (SO_x) Secondary National Ambient Air Quality Standards (NAAQS) Review Panel (CASAC Panel) and a public teleconference of the chartered CASAC. The CASAC Panel will conduct a peer review of EPA's *Draft Integrated Science Assessment for Oxides of Nitrogen and Sulfur—Environmental Criteria (First External Review Draft) (EPA/600/R-07/145, December 2007)* and a consultation on the EPA's draft *Scope and Methods Plan for Risk/Exposure Assessment: Secondary NAAQS Review for Oxides of Nitrogen and Oxides of Sulfur*. The chartered CASAC will review and approve the Panel's report by public teleconference.

DATES: The CASAC Panel will meet from 8:30 a.m. on Wednesday, April 2, 2008 through 4 p.m. Thursday, April 3, 2008 (Eastern Time). The chartered CASAC will meet by public teleconference at 10 a.m. on Monday, May 5, 2008 (Eastern Time).

ADDRESSES: The April 2-3, 2008 public meeting, will take place at the Marriott at Research Triangle Park, 4700 Guardian Drive, Durham, NC 27703,

telephone: (919) 941-6200. The May 5, 2008 public teleconference, will be conducted by phone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the April 2-3, 2008 meeting, may contact Ms. Kyndall Barry, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343-9868; fax: (202) 233-0643; or e-mail at:

barry.kyndall@epa.gov. For information on the CASAC teleconference on May 5, 2008, please contact Mr. Fred Butterfield, Designated Federal Officer (DFO), at the above listed address; via telephone/voice mail: (202) 343-9994 or e-mail at: butterfield.fred@epa.gov. General information concerning the CASAC can be found on the EPA Web site at: <http://yosemite.epa.gov/sab/sabpeople.nsf/WebCommittees/CASAC>.

SUPPLEMENTARY INFORMATION:

Background: The Clean Air Scientific Advisory Committee (CASAC) was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. CASAC provides advice, information and recommendations on the scientific and technical aspects of air quality criteria and national ambient air quality standards (NAAQS) under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six "criteria" air pollutants, including NO_x and SO_x. EPA published the *Integrated Review Plan for the Secondary National Ambient Air Quality Standards for Nitrogen Dioxide and Sulfur Dioxide (Final)* in December 2007. The CASAC Panel provided a consultation on the draft Plan in October 2007: ([http://yosemite.epa.gov/sab/sabproduct.nsf/77B813F50BDD96C1852573A70005BAF3/\\$File/casac-08-003.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/77B813F50BDD96C1852573A70005BAF3/$File/casac-08-003.pdf)). EPA's Office of Research and Development (ORD) has completed the *Draft Integrated Science Assessment for Oxides of Nitrogen and Sulfur—Environmental Criteria (ISA)* and EPA's Office of Air and Radiation (OAR) will also release a *Scope and Methods Plan for Risk/Exposure Assessment*. The purpose of the April 2-3, 2008 meeting,

is for the CASAC Panel to provide advice on these two documents. The chartered CASAC will meet by conference call to review and approve the Panel's draft report on the ISA.

Technical Contacts: Any questions concerning EPA's *Draft Integrated Science Assessment for Oxides of Nitrogen and Sulfur—Environmental Criteria (First External Review Draft)* should be directed to Dr. Tara Greaver, ORD, at (919) 541-2435 or greaver.tara@epa.gov. Any questions concerning EPA's *Scope and Methods Plan for Risk/Exposure Assessment: Secondary NAAQS Review for Oxides of Nitrogen and Oxides of Sulfur* should be directed to Dr. Anne Rea, OAR, at (919) 541-0053 or rea.anna@epa.gov.

Availability of Meeting Materials: EPA-ORD's *Draft Integrated Science Assessment for Oxides of Nitrogen and Sulfur—Environmental Criteria (First External Review Draft)* can be accessed at http://www.epa.gov/ttn/naaqs/standards/no2so2sec/cr_pd.html. EPA-OAR's *Scope and Methods Plan for Risk/Exposure Assessment: Secondary NAAQS Review for Oxides of Nitrogen and Oxides of Sulfur* will be accessible at http://www.epa.gov/ttn/naaqs/standards/no2so2sec/cr_pd.html. The agenda and other materials for this CASAC teleconference will be posted on the SAB Web site at: <http://www.epa.gov/sab> prior to the meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for consideration on the topics included in this advisory activity.

Oral Statements: To be placed on the public speaker list for the April 2-3, 2008 meeting, interested parties should notify Ms. Kyndall Barry, DFO, by e-mail no later than March 28, 2008. Oral presentations will be limited to one-half hour for all speakers. To be placed on the public speaker list for the May 5, 2008 teleconference, interested parties should notify Mr. Fred Butterfield, DFO, by e-mail no later than May 1, 2008. Oral presentations will be limited to a total of 30 minutes for all speakers.

Written Statements: Written statements for the April 2-3, 2008 meeting should be received in the SAB Staff Office by March 28, 2008 so that the information may be made available to the CASAC Panel for its consideration prior to this meeting. For the teleconference meeting of the chartered CASAC on May 5, 2008, statements should be received in the SAB Staff Office by May 1, 2008. Written statements should be supplied to the appropriate DFO in the following formats: one hard copy with original

signature and one electronic copy via e-mail (acceptable file formats: Adobe Acrobat PDF, MS Word, WordPerfect, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Ms. Barry at the phone number or e-mail address noted above, preferably at least ten days prior to the face-to-face meeting, to give EPA as much time as possible to process your request.

Dated: February 15, 2008.

Anthony F. Maciorowski,
Deputy Director, EPA Science Advisory Board
Staff Office.

[FR Doc. E8-3613 Filed 2-25-08; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Statement of Federal Financial Accounting Concepts (SFFAC) No. 5

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice of Issuance of Statement of Federal Financial Accounting Concepts (SFFAC) No. 5, *Definition of Elements and Basic Recognition Criteria for Accrual-Basis Financial Statements*.

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. No. 92-463), as amended, and the FASAB Rules of Procedure, as amended in April 2004, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued Statement of Federal Financial Accounting Concept 5, *Definition of Elements and Basic Recognition Criteria for Accrual-Basis Financial Statements*.

Copies of the concept can be obtained by contacting FASAB at 202-512-7350. The concept is also available on FASAB's home page <http://www.fasab.gov/codifica.html>.

FOR FURTHER INFORMATION CONTACT: Wendy M. Payne, Executive Director, 441 G St., NW., Mail Stop 6K17V, Washington, DC 20548, or call (202) 512-7350.

Authority: Federal Advisory Committee Act, Pub. L. No. 92-463.

Dated: February 20, 2008.

Charles Jackson,
Federal Register Liaison Officer.

[FR Doc. 08-837 Filed 2-25-08; 8:45 am]

BILLING CODE 1610-01-M

Federal Reserve System

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:30 a.m., Monday, March 3, 2008.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT:

Michelle Smith, Director, or Dave Skidmore, Assistant to the Board, Office of Board Members at 202-452-2955.

SUPPLEMENTARY INFORMATION: You may call 202-452-3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, February 22, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 08-880 Filed 2-22-08; 3:15 pm]

BILLING CODE 6210-01-S

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans. No.	Acquiring	Acquired	Entities
TRANSACTIONS GRANTED EARLY TERMINATION—01/14/2008			
20080479	Amazon.com, Inc	Bill Me Later, Inc	Bill Me Later, Inc.
20080494	Duke Energy Corporation	Saluda River Electric Cooperative, Inc ...	Saluda River Electric Cooperative, Inc.
20080569	CML Healthcare Income Fund	ARS Holding, Inc	ARS Holding Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—01/15/2008			
20080462	Ms. Esther Koplowitz Romero de Juseu	Siemens Aktiengesellschaft	Hydrocarbon Recovery Services, Inc. International Petroleum Corp. of Delaware.
20080469	Teradyne, Inc	Nextest Systems Corporation	Nextest Systems Corporation.
20080552	Providence Equity Partners IV L.P	William L. Adamany	AGT Enterprises, Inc. Star-Iowa, LLC.
TRANSACTIONS GRANTED EARLY TERMINATION—01/16/2008			
20080470	Eisai Co., Ltd	MGI Pharma, Inc	MGI Pharma, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—01/17/2008			
20080495	KASLION S.a.r.L	Atlantic Bridge Ventures Holdings Limited.	GloNav Inc.
20080519	Appolo Investment Fund VI, L.P	GA Industries, Inc	GA Industries, Inc.
20080586	Pfizer Inc	The Biotech Settlement	CovX Research LLC. CovX Technologies Ireland Limited.
TRANSACTIONS GRANTED EARLY TERMINATION—01/18/2008			
20080537	Financiere Asteel S.A.	Flash Electronics International	Flash Electronics Holding.
20080564	Eli Lilly and Company	BioMS Medical Corp	BioMS Medical Corp.
20080587	Alfa Mutual Insurance Company	Alfa Corporation	Alfa Corporation.
20080588	Alfa Mutual Fire Insurance Company	Alfa Corporation	Alfa Corporation.
20080590	Long Point Capital Fund, II, L.P	Avadhesh and Umarani Agarwal	UMS Enterprises, Inc.
20080598	Gryphon Partners III, L.P	Accelerated Health Systems, LLC	Accelerated Health Systems, LLC.
20080606	Lake Capital Partners II LP	Gary L. Fish	FishNet Security Holdings, Inc.
20080608	Epicor Software Corporation	NSB Retail Systems PLC	NSB Retail Systems PLC.
TRANSACTIONS GRANTED EARLY TERMINATION—01/22/2008			
20080522	JANA Offshore Partners, Ltd	CNET Networks, Inc	CNET Networks, Inc.
20080563	WuXi Pharma Tech (Cayman) Inc	AppTec Laboratory Services, Inc	AppTec Laboratory Services, Inc.
20080568	BlueScope Steel Ltd	San Faustin N.V	Imsa Steel Corp.
20080591	IFM Infrastructure Funds	Consolidated Edison, Inc	CED Generation Holding Company, LLC. CED Rock Springs, LLC. Consolidated Edison Energy, Massachusetts, LLC. Newington Energy, LLC. Ocean Peaking Power, LLC.
20080595	Murat Ulker	Campbell Soup Company	Godiva Chocolatier, Inc.
20080597	Oak Hill Capital Partners III, L.P	News Corporation	Fox Television Stations, Inc. New World Communications of Kansas City, Inc.
20080602	Oracle Healthcare Acquisition Corp	Precision Therapeutics, Inc	Precision Therapeutics, Inc.
20080611	Linn Energy, LLC	Gary W. and Constance S. Lewis	Lamamco Drilling Company.
20080612	Linn Energy, LLC	Stanley J. and Sabrina L. Miller	Lamamco Drilling Company.
TRANSACTIONS GRANTED EARLY TERMINATION—01/23/2008			
20080609	Intuit Inc	Electronic Clearing House, Inc	Electronic Clearing House, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—01/24/2008			
20080576	American Securities Partners IV, L.P	Horizon Global Technology, Inc	Horizon Global Technology, Inc.
20080578	MHR Institutional Partners III LP	Leap Wireless International, Inc	Leap Wireless International, Inc.
20080582	Owl Creek Overseas Fund, Ltd	Leap Wireless International, Inc	Leap Wireless International, Inc.
20080600	Jose Maria Rubiralta	Inova Diagnostics, Inc	Inova Diagnostics, Inc.
20080603	Quik-Way Retail Associates Holdings II, Ltd.	Royal Dutch Shell plc	Motiva Enterprises LLC.

Trans. No.	Acquiring	Acquired	Entities
20080604	Quik-Way Retail Associates Holdings II, Ltd.	Aramco Services Company	Motiva Enterprises LLC.
20080625	Rock-Tenn Company	Steven Grossman	Southern Container Corporation.

TRANSACTIONS GRANTED EARLY TERMINATION—01/25/2008

20080571	Leucadia National Corporation	AmeriCredit Corp	AmeriCredit Corp.
20080580	Brush Engineered Materials, Inc	Techni-Met, Inc	Techni-Met, Inc.
20080607	U.S. Bancorp	Gray M. Eng	Southern DataComm, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—01/28/2008

20080561	Ralcorp Holdings, Inc	Kraft Foods Inc	Cable Holco, Inc.
20080584	Georg Fischer AG	Phillip M. Pourchot	Central Plastics Company.
20080585	Georg Fischer AG	Robert L. Pourchot	Central Plastics Company.
20080592	Castlerigg International Limited	CNET Networks, Inc	CNET Networks, Inc.
20080632	Hudson Group Holdings, Inc	Robert B. Cohen	Airport Management Services LLC.
			Hudson News Company.
			Hudson Retail Dallas LP.
			Hudson Retail Neu LaGuardia LP.
20080643	A.B.C. Learning Centres Limited	Richard Sodja	CA-III, LLC.
			Capital Academic, LLC.
20080644	A.B.C. Learning Centres Limited	Cheryl L. Sodja	T.T. McKellips, LLC.
			CA-III, LLC.
			Capital Academic, LLC.
			T.T. McKellips, LLC.

TRANSACTIONS GRANTED EARLY TERMINATION—01/29/2008

20080618	HMTBP Holdings Inc	Robert W. Block, III and Nancy Block	Paragon Tank and Equipment, Inc.
			Pasadena Tank Corporation.
20080635	The AES Corporation	Natural Gas Partners VIII, L.P	Mountain View Power Partners, LLC.
20080638	The Crawford Group, Inc	Steward Ventures, Inc	Steward Ventures, Inc.
20080651	Bourse de Montreal, Inc	Boston Options Exchange Group, LLC ..	Boston Options Exchange Group, LLC.
20080657	Munchener Ruckversicherungs-Gesellschaft.	Aon Corporation	Olympic Health Management Systems, Inc.
			Sterling Life Insurance Company.
20080662	Windjammer Senior Equity Fund III, L.P	American Capital Strategies, Ltd	Pasternack Holdings, Inc.

TRANSACTIONS GRANTED EARLY TERMINATION—01/30/2008

20080596	Harbinger Capital Partners Offshore Fund I, Ltd.	The New York Times Company	The New York Times Company.
20080599	Koninklijke Phillips Electronics N.V	Respironics, Inc	Respironics, Inc.
20080601	Genzyme Corporation	Isis Pharmaceuticals, Inc	Isis Pharmaceuticals, Inc.
20080622	DTE Energy Company	Shenango Incorporated	Shenango Incorporated.
20080628	SemGroup Energy Partners, L.P	SemGroup, L.P	SemMaterials Energy Partners, L.L.C.
20080634	Sun Capital Partners V, L.P	Kellwood Company	Kellwood Company.
20080641	ArLight Energy Partners Fund III, L.P ..	Robert E. Parker	R.E. Parker Equipment, Co.
			Repcon, Inc.
			Repcon International Inc.
			Repcon Properties, LLC.

TRANSACTIONS GRANTED EARLY TERMINATION—01/31/2008

20080629	Ingersoll-Rand Company Limited	Trane Inc	Trane Inc.
20080636	ETIRC Aviation, S.a.r.l.	Eclipse Aviation Corporation	Eclipse Aviation Corporation.

TRANSACTIONS GRANTED EARLY TERMINATION—02/01/2008

20080575	Cobham plc	BAE Systems plc	BAE Systems Information & Electronic Systems Integration Inc.
20080639	Kirk Kerkorian	Delta Petroleum Corporation	Delta Petroleum Corporation.
20080647	EMCORE Corporation	Intel Corporation	Intel Corporation.
20080661	ACE Limited	Aon Corporation	Combined Insurance Company of America.
20080664	AmTrust Financial Services, Inc	Unitrin, Inc	Milwaukee Casualty Insurance Co.
			Security National Insurance Company.
			Trinity Lloyd's Corporation.
			Trinity Lloyd's Insurance Company.
			Trinity Universal Insurance Company of Kansas, Inc.
20080665	Elisabeth Murdoch	Ben Silverman	Ben Silverman Productions LLC.
			Reveille, LLC.
			Reveille Motion Pictures, LLC.

Trans. No.	Acquiring	Acquired	Entities
20080671 20080675	Kenan Advantage Group Holdings Corp ConAgra Foods, Inc	John V. Crowe III Donald R. Watts	Transport Service Co. Watts Brothers Farming, LLC. Watts Brothers Farms, LLC. Watts Brothers Fertilizer, Inc. Model Reorg., Inc. Deep South Holding, L.P. e-Dialog, Inc.
20080676 20080678 20080685	E Com Ventures, Inc North American Insurance Leaders, Inc. GSI Commerce, Inc	Model Reorg, Inc David J. and Teresa Disiere e-Dialog, Inc	
TRANSACTIONS GRANTED EARLY TERMINATION—02/04/2008			
20080579 20080593 20080659 20080666	Husky Energy Inc E. Merck OGH UnitedHealth Group Incorporated Marc S. Hermelin	Toledo Refinery LLC Idera Pharmaceuticals, Inc Three Rivers Holdings, Inc Hologic, Inc	Toledo Refinery LLC. Idera Pharmaceuticals, Inc. Three Rivers Holdings, Inc. Cytoc Prenatal Products Corp.
TRANSACTIONS GRANTED EARLY TERMINATION—02/05/2008			
20080645 20080654	The Goldman Sachs Group, Inc. Owl Creek Overseas Fund, Ltd	Total System Services, Inc MetroPCS Communications, Inc	Total System Services, Inc. MetroPCS Communications, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—02/06/2008			
20080637	Owl Creek Overseas Fund, Ltd	Foundation Coal Holdings, Inc	Foundation Coal Holdings, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—02/07/2008			
20080621 20080623 20080673	Siemens Aktiengesellschaft Cooper Industries, Ltd Sun Microsystems, Inc	Morgan Construction Company Voting Trust. MTL Instruments Group plc MySQL AB	Morgan Construction Company. MTL Instruments Group plc. MySQL AB.
TRANSACTIONS GRANTED EARLY TERMINATION—02/11/2008			
20080073 20080694 20080701 20080702 20080716 20080718 20080720 20080721 20080723	Carmeuse Holding S.A. Diageo plc Axcel III K/S 2 Saputo Inc Arsenal Capital Partners Qualified Pur- chaser II LP. Vestar Capital Partners, V, L.P Wilmington Trust Corporation Bain Capital Fund X, L.P Wilmington Trust Corporation	Oglebay Norton Company Ronsenblum Cellars, Inc. Pandora Jewelry America ApS Alto Dairy Cooperative Charter Brokerage Holdings, LLC American Securities Partners III, L.P George & Renee Karfunkel Bright Horizons Family Solutions, Inc Michael Karfunkel & Leah Karfunkel	Oglebay Norton Company. Ronsenblum Cellars, Inc. Pandora Jewelry america ApS. Alto Dairy Cooperative. Charter Brokerage Holdings, LLC. c/o American Securities Capital Part- ners, LLC. PGA HOLDINGS, INC. AST Capital Trust Company of Dela- ware. Bright Horizons Family Solutions, Inc. AST Capital Trust Company of Dela- ware.
TRANSACTIONS GRANTED EARLY TERMINATION—02/12/2008			
20080653 20080689	Bayside Opportunity Fund, L.P Edward J. Ivy and Kimberly H. Cohen ...	HD Supply, Inc Commercial Markets Holdco, Inc	Williams Bros. Lumber Co., LLC. Auto-C, LLC. JohnsonDiversey, Inc.
TRANSACTIONS GRANTED EARLY TERMINATION—02/13/2008			
20080452 20080686 20080715 20080717	M & F Worldwide Corp Blum Strategic Partners IV, L.P The Timken Company Pace Micro Technology PLC	Pearson plc CB Richard Ellis Group, Inc Charles K. Elder, III Koninklijke Philips Electronics N.V	Newco LLC. CB Richard Ellis Group, Inc. Boring Specialties, Inc. Philips Home Networks France S.A.S.
TRANSACTIONS GRANTED EARLY TERMINATION—02/15/2008			
20080726	Teva Pharmaceuticals Industries Ltd	CoGenesys, Inc	CoGenesys, Inc.

For Further Information Contact: 303, Washington, DC 20580, (202) 326-
Sandra M. Peay, Contact Representative; 3100.
or Renee Hallman, Contact
Representative; Federal Trade
Commission, Premerger Notification
Office, Bureau of Competition, Room H-

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 08-832 Filed 2-25-08; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary's Advisory Committee on Re-Designation of Head Start Grantees

AGENCY: U.S. Department of Health and Human Services (HHS).

ACTION: Notice; FACA Committee Meetings Announcement.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the first meeting of the Secretary's Advisory Committee on Re-Designation of Head Start Grantees, Department of Health and Human Services (HHS). The meeting will be held from approximately 10:30 a.m. to 5 p.m. on Wednesday, March 12, 2008, and from 9 a.m. to 5 p.m. on Thursday, March 13, 2008, at The Liaison Capitol Hill, 415 New Jersey Avenue, NW., in Washington, DC. The meeting will be open to the public; however, seating is limited and preregistration is encouraged (see below).

FOR FURTHER INFORMATION CONTACT: Colleen Rathgeb, Office of Head Start, e-mail colleen.rathgeb@acf.hhs.gov or (202) 205-7378.

SUPPLEMENTARY INFORMATION: The Improving Head Start for School Readiness Act of 2007 [Pub. L. 110-134, section 641(c)(2) [42 U.S.C. 9836]] requires the Secretary to develop a system for designation renewal to determine if Head Start agencies are delivering high-quality and comprehensive Head Start programs that meet the educational, health, nutritional, and social needs of the children and families they serve, and meet program and financial management requirements and the program performance standards. The Advisory Committee on Re-Designation of Head Start Grantees will provide advice and recommendations on the development of a transparent, reliable and valid system for designation renewal as required under the statute.

The Advisory Committee will hear presentations on and discuss: (1) The grantee application process; (2) risk management; (3) classroom quality; (4) program monitoring; budgets, fiscal management, and annual audits; (5) the Program Information Report and other data sources; and (6) plans for future work of the Committee.

The meeting will be open to the public; however, seating is limited and preregistration is encouraged. To preregister, please e-mail AdvisoryCommittee@pal-tech.com with "Meeting Registration" in the subject line, or call Tara Nordlander at 703-

243-0495 by 5 p.m. EST, March 10, 2008. Registration must include your name, affiliation, phone number, and days attending. If you require a sign language interpreter or other special assistance, please call Tara Nordlander at 703-243-0495 as soon as possible and no later than March 3, 2008.

Written comments or suggestions on the re-designation process may be submitted electronically to AdvisoryCommittee@pal-tech.com with "Public Comment" in the subject line. These will be included in the public record. HHS recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment, and it allows HHS to contact you if further information on the substance of the comment is needed or if your comment cannot be read due to technical difficulties. HHS's policy is that HHS will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment placed in the official public record. If HHS cannot read your comment due to technical difficulties and cannot contact you for clarification, HHS may not be able to consider your comment.

Documents provided to the Committee will be available upon written request beginning on March 17, 2008. Requests should be sent to AdvisoryCommittee@pal-tech.com with "Materials Request" in the subject line and should include your name, mailing address, and an e-mail address or other contact information.

Dated: February 20, 2008.

Daniel C. Schneider,
Acting Assistant Secretary for Children and Families.

[FR Doc. E8-3641 Filed 2-25-08; 8:45 am]

BILLING CODE 4184-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director, Centers for Disease Control and Prevention: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Advisory Committee to the Director, Centers for Disease Control and Prevention of the Department of Health and Human Services, has been renewed

for a 2-year period extending through February 1, 2010.

For further information, contact Dr. Bradley Perkins, Executive Secretary, Advisory Committee to the Director, Centers for Disease Control and Prevention of the Department of Health and Human Services, 1600 Clifton Rd., M/S D28, Atlanta, Georgia 30333, telephone 404-639-7000 or fax 404-639-5172.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 15, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8-3574 Filed 2-25-08; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Occupational Safety and Health Member Conflict Review, Program Announcement (PA) 07-318

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting.

Time and Date: 1 p.m.-3 p.m., March 18, 2008 (Closed).

Place: National Institute for Occupational Safety and Health, 626 Cochrans Mill Road, Pittsburgh, PA 15236.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92-463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of "Occupational Safety and Health Member Conflict Review, PA 07-318."

Contact Person for More Information: George Bockosh, Ph.D., Scientific Review Administrator, National

Personal Protective Technology Laboratory, National Institute for Occupational Safety and Health, CDC, 626 Cochran's Mill Road, Pittsburgh, PA 15236, Telephone (412) 386-6465.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: February 15, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8-3569 Filed 2-25-08; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Development and Testing of an HIV Prevention Intervention Targeting Black Bisexually Active Men, Funding Opportunity Announcement (FOA) Number PS 08-002

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting.

Time and Date: 10 a.m.-2 p.m., April 9, 2008 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92-463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of "Development and Testing of an HIV Prevention Intervention Targeting Black Bisexually Active Men, FOA Number PS 08-002."

Contact Person for More Information: Susan B. Stanton, D.D.S., Scientific Review Administrator, CDC, 1600 Clifton Road, NE., MS D72, Atlanta, GA 30333, Telephone (404) 639-4640.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: February 15, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8-3577 Filed 2-25-08; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Centers for Agriculture Disease and Injury Research, Program Announcement (PA) PAR 006-057

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting.

Time and Date:

9 a.m.-5 p.m., March 27, 2008 (Closed).

9 a.m.-5 p.m., March 28, 2008 (Closed).

Place: Marriott Waterfront, 80 Compromise Street, Annapolis, MD 21401.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92-463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of "Centers for Agriculture Disease and Injury Research, PA PAR 006-057."

Contact Person for More Information: Stephen Olenchock, PhD, Scientific Review Administrator, Office of Extramural Coordination and Special Projects, National Institute for Occupational Safety and Health, CDC, 1095 Willowdale Road, Morgantown, WV 26505, Telephone (304) 285-6271.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: February 19, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E8-3589 Filed 2-25-08; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a Modified or Altered System of Records

AGENCY: Department of Health and Human Services (HHS), Center for Medicare & Medicaid Services (CMS).

ACTION: Notice of a Modified or Altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify or alter existing system of records titled, "Enrollment Data Base (EDB), System No. 09-70-0502, last modified 67 **Federal Register** 3203 (January 23, 2002). The EDB currently maintains enrollment-related data, data elements pertaining to Medicare Secondary Payer (MSP), and data regarding Direct billing and Third Part premium collection information for Medicare premiums. We are amending the purpose of the EDB to include maintaining enrollment and entitlement data currently maintained in the following CMS systems of records: Medicare Beneficiary Database (MBD), System No. 09-70-0536; and the Medicare Prescription Drug System (MARx), System No. 09-70-4001.

We are modifying the language in published routine use number 1 to permit disclosures to a grantee of a CMS-administered grant program that perform a task for the agency. CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, consultant or grantee whatever information is necessary for the contractor, consultant, or grantee to fulfill its duties. We will modify existing routine use number 5 that permits disclosure to Peer Review Organizations (PRO). Organizations previously referred to as PROs will be renamed to read: Quality Improvement Organizations (QIO). Information will be disclosed to QIOs for health care quality improvement projects. The modified routine use will be renumbered as routine use number 5. We will delete published routine use number 8 authorizing disclosure to support constituent requests made to a congressional representative. If an authorization for the disclosure has been obtained from the data subject, then no routine use is needed. The Privacy Act allows for disclosures with the "prior written consent" of the data subject.

We are modifying the language in the remaining disclosure provisions to provide a proper explanation as to the need for the disclosure and to provide clarity to CMS's intention to disclose individual-specific information contained in this system. We will also take the opportunity to update any sections of the system that were affected by the recent reorganization or because of the impact of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108-173) provisions and to update language in the administrative sections to correspond with language used in other CMS system notices.

The primary purpose of the SOR is to maintain information on Medicare enrollment for the administration of the Medicare program, including the following functions: Ensuring proper Medicare enrollment, claims payment, Direct billing and Third Party premium collection information, coordination of benefits by validating and verifying the enrollment status of beneficiaries, and validating and studying the characteristics of persons enrolled in the Medicare program including their requirements for information. Information retrieved from this SOR will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by agency contractors, consultants, or to a grantee of a CMS-administered grant; (2) assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) assist third parties where the contact is expected to have information relating to the individual's capacity to manage his or her own affairs; (4) assist providers and suppliers of services for administration of Title XVIII of the Act; (5) support Quality Improvement Organizations (QIO); (6) assist other insurers for processing individual insurance claims; (7) facilitate research on the quality and effectiveness of care provided, as well as payment-related and epidemiological projects; (8) support litigation involving the Agency; and (9) combat fraud and abuse in certain health benefits programs. We have provided background information about the new system in the "Supplementary Information" section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. See "Effective Dates" section for comment period.

EFFECTIVE DATE: CMS filed a new SOR report with the Chair of the House

Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security & Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on February 12, 2008. To ensure that all parties have adequate time in which to comment, the new system will become effective 30 days from the publication of the notice, or 40 days from the date it was submitted to OMB and the Congress, whichever is later. We may defer implementation of this system or one or more of the routine use statements listed below if we receive comments that persuade us to defer implementation.

ADDRESSES: The public should address comments to: CMS Privacy Officer, Division of Privacy Compliance, Enterprise Architecture and Strategy Group, Office of Information Services, CMS, Room N2-04-27, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. The telephone number is (410) 786-5357. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m. to 3 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: Kathryn Cox, Health Insurance Specialist, Division of Enrollment and Eligibility Policy, Medicare Enrollment and Appeals Group, Centers for Beneficiary Choices, Mail Stop C2-12-16, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1849. She can be reached by telephone at 410-786-5954 or e-mail Kathryn.Cox@cms.hhs.gov.

SUPPLEMENTARY INFORMATION: The EDB is the authoritative source of information for anyone who has ever been entitled to receive Medicare. Both personal and financial information is stored on the system. The EDB is CMS's single resource of managing Medicare entitlement data. CMS's major operation functions and goals are directly supported by the EDB including Medicare entitlement and premium billing (both direct beneficiary and third-party billing). The system contains personally identifiable information in the form of names, entitlement, health insurance number etc. Numerous CMS critical systems are directly supported by EDB. The Direct Billing System (DB) was integrated into the EDB in 1996. This system deals with all EDB beneficiaries who are (or were) billed directly for their Medicare premiums. The EDB maintains a history of all direct-billing information and payments. In addition, Medicare claim

payments and managed-care enrollment are supported indirectly by the EDB.

The EDB includes the following types of information for each Medicare enrollee: Beneficiary identification (e.g., name, birth date, address, date of death); Part A and Part B enrollment (current and historical); Medicare card issuance; Medicare Secondary Payer (MSP); Third-party payer; Medicare Advantage enrollment; Common Working File (CWF) host site; Hospice information; Cross-reference numbers; Direct billing; Disability data; and ESRD data.

I. Description of the Proposed System of Records

A. Statutory and Regulatory Basis for SOR

Authority for maintenance of the system is given under sections 226, 226A, 1811, 1818, 1818A, 1831, 1836, 1837, 1838, 1843, 1876, and 1881 of the Social Security Act (the Act) and Title 42 Code of Federal Regulations (CFR), parts 406, 407, 408, 411 and 424. Authority for maintenance of the system section 1862 of the Act was a published authority in the published SOR. We included section 1862 in the modified SOR since we do maintain a limited number of data elements in the EDB pertaining to MSP. Authority for maintenance of the system section 1870 of the Act was included in the modified system since the EDB does maintain data regarding direct billing for Medicare premiums. Section 1870(g) describes refunding these premiums.

B. Collection and Maintenance of Data in the System

The system contains information related to Medicare enrollment and entitlement and MSP data containing other party liability insurance information necessary for appropriate Medicare claim payment. It contains hospice election, Direct billing and Third Party Premium collection information, and group health plan enrollment data. The system also contains the individual's health insurance numbers, name, geographic location, race/ethnicity, sex, and date of birth. Information is collected on individuals age 65 or over who have been, or currently are, entitled to health insurance (Medicare) benefits under Title XVIII of the Act or under provisions of the Railroad Retirement Act, individuals under age 65 who have been, or currently are, entitled to such benefits on the basis of having been entitled for not less than 24 months to disability benefits under Title II of the Act or under the Railroad Retirement Act, individuals who have been, or

currently are, entitled to such benefits because they have ESRD, individuals age 64 and 8 months or over who are likely to become entitled to health insurance (Medicare) benefits upon attaining age 65, and individuals under age 65 who have at least 21 months of disability benefits who are likely to become entitled to Medicare upon the 25th month of their being disabled.

II. Agency Policies, Procedures, and Restrictions on Routine Uses

A. The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a "routine use." The Government will only release EDB information that can be associated with an individual as provided for under "Section III. Proposed Routine Use Disclosures of Data in the System." Both identifiable and non-identifiable data may be disclosed under a routine use. We will only collect the minimum personal data necessary to achieve the purpose of EDB.

CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected; e.g., to collect and maintain a person-level view of identifiable data to establish a data warehouse to study chronically ill Medicare beneficiaries.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy, at the earliest time, all patient-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a "routine use." The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support agency contractors, or consultants, or to a grantee of a CMS-administered grant program who have been engaged by the agency to assist in the accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing CMS function relating to purposes for this system.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, consultant or grantee whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor, consultant or grantee from using or disclosing the information for any purpose other than that described in the contract and requires the contractor, consultant or grantee to return or destroy all information at the completion of the contract.

2. To assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. contribute to the accuracy of CMS's proper payment of Medicare benefits;

b. enable such agency to administer a Federal health benefits program, or, as necessary, to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; and/or

c. assist Federal/state Medicaid programs within the state.

Other Federal or state agencies, in their administration of a Federal health program, may require EDB information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

3. To assist third party contacts (without the consent of the individuals to whom the information pertains) in situations where the party to be contacted has, or is expected to have information relating to the individual's capacity to manage his or her affairs or to his or her eligibility for, or an entitlement to, benefits under the Medicare program and,

a. The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exists: the individual is confined to a mental institution, a court of competent jurisdiction has appointed a guardian to manage the affairs of that individual, a court of competent jurisdiction has declared the individual to be mentally incompetent, or the individual's attending physician has certified that the individual is not sufficiently mentally competent to manage his or her own affairs or to provide the information being sought, the individual cannot read or write, cannot afford the cost of obtaining the information, a language barrier exist, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

b. The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's entitlement to benefits under the Medicare program; and the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected fraud and abuse, program integrity, quality appraisal, or evaluation and measurement of program activities.

Third parties contacts require EDB information in order to provide support for the individual's entitlement to benefits under the Medicare program; to establish the validity of evidence or to verify the accuracy of information presented by the individual or the representative of the applicant, and assist in the monitoring of Medicare claims information of beneficiaries, including proper reimbursement of services provided.

Senior citizen volunteers working in the carriers and intermediaries' offices to assist Medicare beneficiaries' request

for assistance may require access to EDB information.

Occasionally fiscal intermediary/ carrier banks, automated clearing houses, value added networks (VAN), and provider banks, to the extent necessary transfer to provider's electronic remittance advice of Medicare payments, and with respect to provider banks, to the extent necessary to provide account management services to providers using this information.

4. To assist providers and suppliers of services dealing through fiscal intermediaries or carriers for the administration of Title XVIII of the Social Security Act.

Providers and suppliers of services require EDB information in order to establish the validity of evidence, or to verify the accuracy of information presented by the individual as it concerns the individual's entitlement to benefits under the Medicare program, including proper reimbursement for services provided.

Providers and suppliers of services who are attempting to validate items on which the amounts included in the annual Physician/Supplier Payment List, or other similar publications are based.

5. To support Quality Improvement Organizations (QIO) in order to assist the QIO to perform Title XI and Title XVIII functions relating to assessing and improving HHA quality of care.

QIOs will work with HHAs to implement quality improvement programs, provide consultation to CMS, its contractors, and to state agencies. The QIOs will provide a supportive role to HHAs in their endeavors to comply with Medicare Conditions of Participation; will assist the state agencies in related monitoring and enforcement efforts; assist CMS and help regional home health intermediaries in home health program integrity assessment; and prepare summary information about the nation's home health care for release to beneficiaries.

6. To assist insurance companies, third party administrators (TPA), employers, self-insurers, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, group health plans (i.e., health maintenance organizations (HMOs) or a competitive medical plan (CMP) with a Medicare contract, or a Medicare-approved health care prepayment plan (HCPP)), directly or through a contractor, and other groups providing protection for their enrollees. Information to be disclosed shall be limited to Medicare entitlement

data. In order to receive the information, they must agree to:

a. certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a TPA;

b. utilize the information solely for the purpose of processing the identified individual's insurance claims; and

c. safeguard the confidentiality of the data and prevent unauthorized access. Other insurers, TPAs, HMOs, and HCPPs may require EDB information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

7. To support an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or payment-related projects.

EDB data will provide for research, evaluation, and epidemiological projects, a broader, longitudinal, national perspective of the status of Medicare beneficiaries. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare beneficiaries and the policy that governs the care.

8. To assist the Department of Justice (DOJ), court or adjudicatory body when:

- a. the Agency or any component thereof, or
- b. any employee of the Agency in his or her official capacity, or
- c. any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or
- d. the United States Government,

is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court, or adjudicatory body involved.

9. To assist a CMS contractor (including, but not limited to FIs and carriers) that assists in the administration of a CMS-administered

health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

10. To assist another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

Other agencies may require EDB information for the purpose of combating fraud and abuse in such Federally funded programs.

B. Additional Provisions Affecting Routine Use Disclosures

To the extent this system contains Protected Health Information (PHI) as defined by HHS regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR Parts 160 and 164, Subparts A and E) 65 Fed. Reg. 82462 (12-28-00). Disclosures of such PHI that are otherwise authorized by these routine uses may only be made if, and as, permitted or required by the "Standards for Privacy of Individually Identifiable Health Information."

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law,

if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

IV. Safeguards

CMS has safeguards in place for authorized users and monitors of such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A-130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

V. Effects of the Modified System of Records on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will take precautionary measures to minimize the risks of unauthorized access to the records and

the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in this system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

Dated: February 13, 2008.

Charlene Frizzera,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

SYSTEM NUMBER: 09-70-0502

SYSTEM NAME:

Enrollment Database (EDB), HHS/CMS/CBC.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244-1850, and at various other remote locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Information is collected on individuals age 65 or over who have been, or currently are, entitled to health insurance (Medicare) benefits under Title XVIII of the Act or under provisions of the Railroad Retirement Act, individuals under age 65 who have been, or currently are, entitled to such benefits on the basis of having been entitled for not less than 24 months to disability benefits under Title II of the Act or under the Railroad Retirement Act, individuals who have been, or currently are, entitled to such benefits because they have ESRD, individuals age 64 and 8 months or over who are likely to become entitled to health insurance (Medicare) benefits upon attaining age 65, and individuals under age 65 who have at least 21 months of disability benefits who are likely to become entitled to Medicare upon the 25th month of their being disabled.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information related to Medicare enrollment and entitlement and Medicare Secondary Payer (MSP) data containing other party liability insurance information necessary for appropriate Medicare claim payment. It contains hospice

election, Direct billing and Third Party Premium collection information, and group health plan enrollment data. The system also contains the individual's health insurance numbers, name, geographic location, race/ethnicity, sex, and date of birth.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under sections 226, 226A, 1811, 1818, 1818A, 1831, 1836, 1837, 1838, 1843, 1876, and 1881 of the Social Security Act (the Act) and Title 42 Code of Federal Regulations (CFR), parts 406, 407, 408, 411 and 424. Authority for maintenance of the system section 1862 of the Act was a published authority in the published SOR. We included section 1862 in the modified SOR since we do maintain a limited number of data elements in the EDB pertaining to MSP. Authority for maintenance of the system section 1870 of the Act was included in the modified system since the EDB does maintain data regarding direct billing for Medicare premiums. Section 1870 (g) describes refunding these premiums.

PURPOSE(S) OF THE SYSTEM:

The primary purpose of the SOR is to maintain information on Medicare enrollment for the administration of the Medicare program, including the following functions: ensuring proper Medicare enrollment, claims payment, Direct billing and Third Party premium collection information, coordination of benefits by validating and verifying the enrollment status of beneficiaries, and validating and studying the characteristics of persons enrolled in the Medicare program including their requirements for information. Information retrieved from this SOR will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by agency contractors, consultants, or to a grantee of a CMS-administered grant; (2) assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) assist third parties where the contact is expected to have information relating to the individual's capacity to manage his or her own affairs; (4) assist providers and suppliers of services for administration of Title XVIII of the Act; (5) support Quality Improvement Organizations (QIO); (6) assist other insurers for processing individual insurance claims; (7) facilitate research on the quality and effectiveness of care provided, as well as payment-related and epidemiological projects; (8) support litigation involving the Agency; and (9) combat fraud and

abuse in certain health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a "routine use." The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support agency contractors, or consultants, or to a grantee of a CMS-administered grant program who have been engaged by the agency to assist in the accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

2. To assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. contribute to the accuracy of CMS's proper payment of Medicare benefits;

b. enable such agency to administer a Federal health benefits program, or, as necessary, to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; and/or

c. assist Federal/state Medicaid programs within the state.

3. To assist third party contacts (without the consent of the individuals to whom the information pertains) in situations where the party to be contacted has, or is expected to have information relating to the individual's capacity to manage his or her affairs or to his or her eligibility for, or an entitlement to, benefits under the Medicare program and,

a. The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exists: the individual is confined to a mental institution, a court of competent jurisdiction has appointed a guardian to manage the affairs of that individual, a court of competent jurisdiction has declared the individual to be mentally incompetent, or the individual's attending physician has certified that the individual is not sufficiently mentally competent to manage his or her own affairs or to provide the information being sought, the individual

cannot read or write, cannot afford the cost of obtaining the information, a language barrier exist, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

b. The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's entitlement to benefits under the Medicare program; and the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected fraud and abuse, program integrity, quality appraisal, or evaluation and measurement of program activities.

4. To assist providers and suppliers of services dealing through fiscal intermediaries or carriers for the administration of Title XVIII of the Social Security Act.

5. To support Quality Improvement Organizations (QIO) in order to assist the QIO to perform Title XI and Title XVIII functions relating to assessing and improving HHA quality of care.

6. To assist insurance companies, third party administrators (TPA), employers, self-insurers, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, group health plans (i.e., health maintenance organizations (HMOs) or a competitive medical plan (CMP) with a Medicare contract, or a Medicare-approved health care prepayment plan (HCPP)), directly or through a contractor, and other groups providing protection for their enrollees. Information to be disclosed shall be limited to Medicare entitlement data. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a TPA;

b. utilize the information solely for the purpose of processing the identified individual's insurance claims; and

c. safeguard the confidentiality of the data and prevent unauthorized access.

7. To support an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or payment-related projects.

8. To assist the Department of Justice (DOJ), court or adjudicatory body when:

a. the Agency or any component thereof, or

b. any employee of the Agency in his or her official capacity, or

c. any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

9. To assist a CMS contractor (including, but not limited to FIs and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

10. To assist another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

B. ADDITIONAL PROVISIONS AFFECTING ROUTINE USE DISCLOSURES

To the extent this system contains Protected Health Information (PHI) as defined by HHS regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR parts 160 and 164, subparts A and E) 65 Fed. Reg. 82462 (12-28-00). Disclosures of such PHI that are otherwise authorized by these routine uses may only be made if, and as, permitted or required by the "Standards for Privacy of Individually Identifiable Health Information."

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small

size, use this information to deduce the identity of the beneficiary).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on magnetic media.

RETRIEVABILITY:

All Medicare records are accessible by HIC number or alpha (name) search. This system supports both on-line and batch access.

SAFEGUARDS:

CMS has safeguards for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, CMS has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the EDB system. For computerized records, safeguards have been established in accordance with the Department of Health and Human Services (HHS) standards and National Institute of Standards and Technology guidelines, e.g., security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management (IRM) Circular #10, Automated Information Systems Security Program; CMS Automated Information Systems (AIS) Guide, Systems Securities Policies, and OMB Circular No. A-130 (revised), Appendix III.

RETENTION AND DISPOSAL:

Records are maintained for a period of 15 years. All claims-related records are encompassed by the document preservation order and will be retained until notification is received from DOJ.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Enrollment & Eligibility Policy, Medicare Enrollment and Appeals Group, Centers for Beneficiary Choices, Mail Stop C2-09-17, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1849.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, health insurance claim number, address, date of birth, and sex, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), and social security number (SSN). Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the systems manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with department regulation 45 CFR 5b.7).

RECORD SOURCE CATEGORIES:

The data contained in these records are furnished by the individual, or in the case of some MSP situations, through third party contacts. There are cases, however, in which the identifying information is provided to the physician by the individual; the physician then adds the medical information and submits the bill to the carrier for payment. Updating information is also obtained from the Railroad Retirement Board, and the Master Beneficiary Record maintained by the SSA.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E8-3562 Filed 2-25-08; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers For Medicare & Medicaid Services

Privacy Act of 1974; Report of a Modified or Altered System of Records

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of a Modified or Altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify or alter an existing SOR titled, "1-800 Medicare Helpline (HELPLINE), System No. 09-70-0535," modified at 68 **Federal Register** 25379 (May 12, 2003). We propose to modify existing routine use number 2 that permits disclosure to agency contractors and consultants to include disclosure to CMS grantees who perform a task for the agency. CMS grantees, charged with completing projects or activities that require CMS data to carry out that activity, are classified separate from CMS contractors and/or consultants. The modified routine use will remain as routine use number 1. We will delete routine use number 6 authorizing disclosure to support constituent requests made to a congressional representative. If an authorization for the disclosure has been obtained from the data subject, then no routine use is needed.

We will broaden the scope of published routine uses number 8 and 9, authorizing disclosures to combat fraud and abuse in the Medicare and Medicaid programs to include combating "waste" which refers to specific beneficiary/recipient practices that result in unnecessary cost to all Federally-funded health benefit programs. Finally, we will delete the section titled "Additional Circumstances Affecting Routine Use Disclosures," that addresses "Protected Health Information (PHI)" and "small cell size." The requirement for compliance with HHS regulation "Standards for Privacy of Individually Identifiable Health Information" does not apply because this system does not collect or maintain PHI. In addition, our policy to prohibit release if there is a possibility that an individual can be identified through "small cell size" is not applicable to the data maintained in this system.

We are modifying the language in the remaining routine uses to provide a proper explanation as to the need for the routine use and to provide clarity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their usage. We will also take the opportunity to update any sections of the system that were affected by the recent reorganization or because of the impact of the MMA and to update language in the administrative sections to correspond with language used in other CMS SORs.

The primary purpose of the SOR is to provide general information to

beneficiaries and future beneficiaries so that they can make informed Medicare decisions, maintain information on Medicare enrollment for the administration of the Medicare program, including the following functions: Ensuring proper Medicare enrollment, claims payment, Medicare premium billing and collection, coordination of benefits by validating and verifying the enrollment status of beneficiaries, and validating and studying the characteristics of persons enrolled in the Medicare program including their requirements for information. Information retrieved from this SOR will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by contractors, consultants, or CMS grantees; (2) assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) assist providers and suppliers of services for administration of Title XVIII of the Act; (4) assist third parties where the contact is expected to have information relating to the individual's capacity to manage his or her own affairs; (5) assist other insurers for processing individual insurance claims; (6) support litigation involving the Agency; and (7) combat fraud, waste, and abuse in certain health benefits programs. We have provided background information about the modified system in the "Supplementary Information" section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. See "Effective Dates" section for comment period.

EFFECTIVE DATES: CMS filed a modified/ altered system report with the Chair of the House Committee on Oversight and Government Reform, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on February 12, 2008. To ensure that all parties have adequate time in which to comment, the new SOR, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: CMS Privacy Officer, Division of Privacy Compliance, Enterprise Architecture and Strategy Group, Office of Information Services, CMS, Room N2-04-27, 7500 Security

Boulevard, Baltimore, Maryland 21244-1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.-3 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: Kenneth Taylor, Division of Call Center Operations, Customer Teleservice Operations Group, Office of Beneficiary Information Services, CMS, 7500 Security Boulevard, C2-26-20, Baltimore, Maryland 21244-1850. The telephone number is 410-786-6736 or contact by e-mail kenneth.taylor@cms.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Description of the Modified or Altered System of Records

A. Statutory and Regulatory Basis for SOR

Authority for maintenance of the system is given under sections 1102, 1804(b), and 1851(d) of the Social Security Act (42 United States Code (U.S.C.) 1302, 1395b-2(b), and 1395w-21(d)), and OMB Circular A-123, Internal Control Systems, and Title 42 U.S.C. section 1395w-21 (d) (Pub. L. 105-3, the Balanced Budget Act of 1997).

B. Collection and Maintenance of Data in the System

Information is collected on individuals age 65 or over who have been, or currently are, entitled to health insurance (Medicare) benefits under Title XVIII of the Act or under provisions of the Railroad Retirement Act, individuals under age 65 who have been, or currently are, entitled to such benefits on the basis of having been entitled for not less than 24 months to disability benefits under Title II of the Act or under the Railroad Retirement Act, individuals who have been, or currently are, entitled to such benefits because they have ESRD, individuals age 64 and 8 months or over who are likely to become entitled to health insurance (Medicare) benefits upon attaining age 65, and individuals under age 65 who have at least 21 months of disability benefits who are likely to become entitled to Medicare upon the 25th month of their being disabled. The collected information will contain name, address, telephone number, health insurance claim (HIC) number, geographic location, race/ethnicity, sex, date of birth, as well as, background information relating to Medicare or Medicaid issues. The HELPLINE will also maintain a caller history for purposes of re-contacts by customer service representatives or CMS, contain

information related to Medicare enrollment and entitlement, group health plan enrollment data, as well as, background information relating to Medicare or Medicaid issues.

II. Agency Policies, Procedures, and Restrictions on Routine Uses

A. The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a "routine use."

The government will only release HELPLINE information that can be associated with an individual as provided for under "Section III. Proposed Routine Use Disclosures of Data in the System." Both identifiable and non-identifiable data may be disclosed under a routine use.

We will only collect the minimum personal data necessary to achieve the purpose of HELPLINE. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the SOR will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason data is being collected; e.g., to provide general information to beneficiaries and future beneficiaries so that they can make informed Medicare decisions, maintain information on Medicare enrollment for the administration of the Medicare program, including the following functions: Ensuring proper Medicare enrollment, claims payment, Medicare premium billing and collection, coordination of benefits by validating and verifying the enrollment status of beneficiaries, and validating and studying the characteristics of persons enrolled in the Medicare program including their requirements for information.

2. Determines that:

- The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;
- The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record;

b. Remove or destroy at the earliest time all individually-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. The Privacy Act allows us to disclose information without an individual's consent if the These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the HELPLINE without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We are proposing to establish or modify the following routine use disclosures of information maintained in the system:

1. To support Agency contractors, consultants, or CMS grantees who have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this SOR and who need to have access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this SOR.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give contractors, consultants, or CMS grantees whatever information is necessary for the contractors, consultants, or CMS grantees to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractors, consultants, or CMS grantees from using or disclosing the information for any purpose other than that described in the contract and requires the contractors, consultants, or CMS grantees to return or destroy all information at the completion of the contract.

2. To assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. Assist Federal/state Medicaid programs within the state.

Other Federal or state agencies in their administration of a Federal health program may require HELPLINE information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided;

In addition, other state agencies in their administration of a Federal health program may require HELPLINE information for the purposes of determining, evaluating and/or assessing cost, effectiveness, and/or the quality of health care services provided in the state;

Disclosure under this routine use shall be used by state Medicaid agencies pursuant to agreements with the HHS for determining Medicaid and Medicare eligibility, for quality control studies, for determining eligibility of recipients of assistance under Titles IV, XVIII, and XIX of the Act, and for the administration of the Medicaid program. Data will be released to the state only on those individuals who are patients under the services of a Medicaid program within the state or who are residents of that state.

We also contemplate disclosing information under this routine use in situations in which state auditing agencies require HELPLINE information for auditing state Medicaid eligibility considerations. CMS may enter into an agreement with state auditing agencies to assist in accomplishing functions relating to purposes for this SOR.

3. To assist providers and suppliers of services directly or through fiscal intermediaries or carriers for the administration of Title XVIII of the Social Security Act.

Providers and suppliers of services require HELPLINE information in order to establish the validity of evidence or to verify the accuracy of information presented by the individual, as it concerns the individual's entitlement to benefits under the Medicare program, including proper reimbursement for services provided.

4. To assist third party contacts in situations where the party to be contacted has, or is expected to have information relating to the individual's capacity to manage his or her affairs or to his or her eligibility for, or an entitlement to, benefits under the Medicare program and,

a. The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exists: The individual is confined to a mental institution, a court of competent jurisdiction has appointed a guardian to manage the affairs of that individual, a court of competent jurisdiction has declared the individual to be mentally incompetent, or the individual's attending physician has certified that the individual is not sufficiently mentally competent to manage his or her own affairs or to provide the information being sought, the individual cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

b. The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: The individual's entitlement to benefits under the Medicare program, the amount of reimbursement, and in cases in which the evidence is being reviewed as a result of suspected fraud and abuse, program integrity, quality appraisal, or evaluation and measurement of activities.

Third party contacts require HELPLINE information in order to provide support for the individual's entitlement to benefits under the Medicare program; to establish the validity of evidence or to verify the accuracy of information presented by the individual, and assist in the monitoring of Medicare claims information of beneficiaries, including proper reimbursement of services provided.

5. To assist insurance companies, third party administrators (TPA), employers, self-insurers, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, group health plans (i.e., health maintenance organizations (HMOs) or a competitive medical plan (CMP) with a Medicare contract, or a Medicare-approved health care prepayment plan (HCPP)), directly or through a contractor, and other groups providing protection for their

enrollees. Information to be disclosed shall be limited to Medicare entitlement data. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a TPA;

b. Utilize the information solely for the purpose of processing the identified individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access.

Other insurers, TPAs, HMOs, and HCPPs may require HELPLINE information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

6. To support the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court, or adjudicatory body involved.

7. To support a CMS contractor (including, but not limited to FIs and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such programs.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS

functions relating to the purpose of combating fraud, waste or abuse.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

8. To assist another Federal agency or an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency) that administers, or that has the authority to investigate potential fraud, waste, and abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, and abuse in such programs.

Other agencies may require HELPLINE information for the purpose of combating fraud, waste, and abuse in such Federally funded programs.

IV. Safeguards

CMS has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare

Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A-130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook; and the CMS Information Security Handbook.

V. Effects of the Modified System of Records on Individual Rights

CMS proposes to modify this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will take precautionary measures (see item IV above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in the system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

Dated: February 13, 2008.

Charlene Frizzera,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

SYSTEM NO. 09-70-0535

SYSTEM NAME:

"1-800 Medicare Helpline (HELPLINE)," HHS/CMS/CBC.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244-1850 and at various other contractor locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Information is collected on individuals age 65 or over who have been, or currently are, entitled to health

insurance (Medicare) benefits under Title XVIII of the Act or under provisions of the Railroad Retirement Act, individuals under age 65 who have been, or currently are, entitled to such benefits on the basis of having been entitled for not less than 24 months to disability benefits under Title II of the Act or under the Railroad Retirement Act, individuals who have been, or currently are, entitled to such benefits because they have ESRD, individuals age 64 and 8 months or over who are likely to become entitled to health insurance (Medicare) benefits upon attaining age 65, and individuals under age 65 who have at least 21 months of disability benefits who are likely to become entitled to Medicare upon the 25th month of their being disabled.

CATEGORIES OF RECORDS IN THE SYSTEM:

The collected information will contain name, address, telephone number, health insurance claim (HIC) number, geographic location, race/ethnicity, sex, date of birth, as well as, background information relating to Medicare or Medicaid issues. The HELPLINE will also maintain a caller history for purposes of re-contacts by customer service representatives or CMS, contain information related to Medicare enrollment and entitlement, group health plan enrollment data, as well as, background information relating to Medicare or Medicaid issues.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under sections 1102, 1804(b), and 1851(d) of the Social Security Act (42 United States Code (U.S.C.) 1302, 1395b-2(b), and 1395w-21(d)), and OMB Circular A-123, Internal Control Systems, and Title 42 U.S.C. section 1395w-21(d) (Pub. L. 105-3, the Balanced Budget Act of 1997).

PURPOSE(S) OF THE SYSTEM:

The primary purpose of the SOR is to provide general information to beneficiaries and future beneficiaries so that they can make informed Medicare decisions, maintain information on Medicare enrollment for the administration of the Medicare program, including the following functions: Ensuring proper Medicare enrollment, claims payment, Medicare premium billing and collection, coordination of benefits by validating and verifying the enrollment status of beneficiaries, and validating and studying the characteristics of persons enrolled in the Medicare program including their requirements for information. Information retrieved from this SOR

will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by contractors, consultants, or CMS grantees; (2) assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) assist providers and suppliers of services for administration of Title XVIII of the Act; (4) assist third parties where the contact is expected to have information relating to the individual's capacity to manage his or her own affairs; (5) assist other insurers for processing individual insurance claims; (6) support litigation involving the Agency; and (7) combat fraud, waste, and abuse in certain health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

A. The Privacy Act allows us to disclose information without an individual's consent if the These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the HELPLINE without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We are proposing to establish or modify the following routine use disclosures of information maintained in the system:

1. To support Agency contractors, consultants, or CMS grantees who have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this SOR and who need to have access to the records in order to assist CMS.
2. To assist another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:
 - a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,
 - b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or
 - c. Assist Federal/state Medicaid programs within the state.
3. To assist providers and suppliers of services directly or through fiscal intermediaries or carriers for the

administration of Title XVIII of the Social Security Act.

4. To assist third party contacts in situations where the party to be contacted has, or is expected to have information relating to the individual's capacity to manage his or her affairs or to his or her eligibility for, or an entitlement to, benefits under the Medicare program and,

a. The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exists: The individual is confined to a mental institution, a court of competent jurisdiction has appointed a guardian to manage the affairs of that individual, a court of competent jurisdiction has declared the individual to be mentally incompetent, or the individual's attending physician has certified that the individual is not sufficiently mentally competent to manage his or her own affairs or to provide the information being sought, the individual cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists or the custodian of the information will not, as a matter of policy, provide it to the individual), or

b. The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: The individual's entitlement to benefits under the Medicare program, the amount of reimbursement, and in cases in which the evidence is being reviewed as a result of suspected fraud and abuse, program integrity, quality appraisal, or evaluation and measurement of activities.

5. To assist insurance companies, third party administrators (TPA), employers, self-insurers, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, group health plans (i.e., health maintenance organizations (HMOs) or a competitive medical plan (CMP) with a Medicare contract, or a Medicare-approved health care prepayment plan (HCPP)), directly or through a contractor, and other groups providing protection for their enrollees. Information to be disclosed shall be limited to Medicare entitlement data. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a TPA;

b. Utilize the information solely for the purpose of processing the identified individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access.

6. To support the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

7. To support a CMS contractor (including, but not limited to FIs and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such programs.

8. To assist another Federal agency or an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency) that administers, or that has the authority to investigate potential fraud, waste, and abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, and abuse in such programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on electronic media.

RETRIEVABILITY:

The collected data are retrieved by an individual identifier; e.g., beneficiary name or HICN, and unique provider identification number.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A-130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

RETENTION AND DISPOSAL:

CMS will retain information for a total period not to exceed 6 years and 3 months. All claims-related records are encompassed by the document preservation order and will be retained until notification is received from DOJ.

SYSTEM MANAGER AND ADDRESSES:

Director, Division of Call Center Operations, Customer Teleservice Operations Group, Office of Beneficiary Information Services, CMS, 7500 Security Boulevard, C2-26-20, Baltimore, Maryland 21244-1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, employee identification number, tax identification number, national provider number, and for verification purposes, the subject individual's name

(woman's maiden name, if applicable), HICN, and/or SSN (furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay).

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7).

RECORDS SOURCE CATEGORIES:

The data contained in these records are furnished by the individual, or in the case of some situations, through third party contacts that make calls to 1-800 Medicare Helpline. Updating information is also obtained from the following CMS systems of records: Enrollment Data Base (09-70-0502), Common Working File (09-70-0525), and the Master Beneficiary Record maintained by the Social Security Administration (SSA System of Records SSA/ORSIS 60-0090).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E8-3564 Filed 2-25-08; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HIV/AIDS Bureau; Policy Notice 99-02 Amendment #1

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Final Notice.

SUMMARY: The HRSA HIV/AIDS Bureau (HAB) Policy Notice 99-02 entitled, *The Use of Ryan White HIV/AIDS Program Funds for Housing Referral Services and Short-term or Emergency Housing Needs*, provides grantees with guidance on the use of Title XXVI of the Public Health Service Act (Ryan White HIV/AIDS Program) funds for short-term and

emergency housing assistance for persons living with HIV/AIDS. This **Federal Register** notice seeks to make public the final policy notice 99–02 Amendment # 1 which places a cumulative period of 24 months on short-term and emergency housing assistance under the Ryan White HIV/AIDS Program, and clarifies and updates certain nomenclature found in the original housing policy 99–02. This policy becomes effective March 27, 2008.

SUPPLEMENTARY INFORMATION: HAB Policy Notice 99–02 Amendment # 1 establishes a cumulative 24-month period per household for use of Ryan White HIV/AIDS Program funds for short-term and emergency housing assistance. The final policy notice 99–02 Amendment # 1 reflects modifications based on public comment received in response to the HAB policy notice published in the **Federal Register** on December 6, 2006. During the 60-day comment period, ending February 5, 2007, HAB received over 200 comments from the public.

Comments on the Proposed Housing Policy Amendments and HRSA

Response: There were several public comments in favor of the draft policy stating that the proposed changes allow more money to be allocated to life-saving core medical services, including medications. The following three areas of concern were the main points raised in the public comments.

Comment: The imposition of a lifetime cap of 24 months on housing assistance was felt to be restrictive and does not allow for exceptions.

Response: HRSA disagrees that the 24-month cap is too restrictive and retains that requirement in order to balance the housing policy with the more restrictive funding limits established for support services in the 2006 reauthorization of the Ryan White HIV/AIDS Program. In addition, this time limit emphasizes that Ryan White HIV/AIDS Program funds for housing assistance must be short-term in nature, and designed to obtain more permanent and stable assistance from other funding sources.

Comment: The immediate effective date does not allow programs sufficient time to plan the implementation of the policy.

Response: With respect to concerns that the immediate effective date did not allow programs time to properly implement the amended policy, the effective date is moved to March 27, 2008 allowing programs additional time to plan the implementation of the final housing policy 99–02 Amendment #1.

Comment: Current clients that are at or close to the 24-month period of their use of funds for housing services are not grandfathered into the draft policy; and additional concerns regarding the establishment of new tracking systems is particularly difficult if it is necessary to back-track and count clients currently receiving housing assistance.

Response: The cumulative 24-month period does not include any previous housing assistance received prior to the effective date which responds to concerns related to the grandfathering of current clients receiving such assistance. The fact that the policy is not retroactive eliminates concerns related to the burden of tracking previous clients utilizing housing assistance through Ryan White HIV/AIDS Program funds. Grantees must be capable of tracking future housing payments and providing HAB with documentation related to the use of funds for housing assistance, including evidence of compliance with the 24-month limit established in this final HAB Policy Notice 99–02 Amendment # 1.

The final policy notice also addresses new nomenclature needed as the result of the reauthorization of the Ryan White HIV/AIDS Program in 2006. For instance, the amended Ryan White Comprehensive AIDS Resources Emergency (CARE) Act is referred to as Title XXVI of The Public Health Service Act (Ryan White HIV/AIDS Program). Furthermore, the programs under Titles I–IV are now referred to as programs under Parts A–D.

HRSA HAB Policy Notice—99–02, Amendment # 1

Document Title: The Use of Ryan White HIV/AIDS Program Funds for Housing Referral Services and Short-term or Emergency Housing Needs

The following policy establishes guidelines for allowable housing-related expenditures under the Ryan White HIV/AIDS Program. The purpose of all Ryan White HIV/AIDS Program funds is to ensure that eligible HIV-infected persons and families gain or maintain access to medical care.

A. Funds received under the Ryan White HIV/AIDS Program (Title XXVI of the Public Health Service Act) may be used for the following housing expenditures:

i. Housing referral services defined as assessment, search, placement, and advocacy services must be provided by case managers or other professional(s) who possess a comprehensive knowledge of local, State, and Federal housing programs and how they can be accessed; or

ii. Short-term or emergency housing defined as necessary to gain or maintain access to medical care and must be related to either:

a. Housing services that include some type of medical or supportive service (a listing of supportive services can be found at: <http://hab.hrsa.gov/reports/data2b.htm>) including, but not limited to, residential substance abuse treatment or mental health services (not including facilities classified as an Institution for Mental Diseases under Medicaid), residential foster care, and assisted living residential services; or

b. Housing services that do not provide direct medical or supportive services but are essential for an individual or family to gain or maintain access to and compliance with HIV-related medical care and treatment. Necessity of housing services for purposes of medical care must be certified or documented by a case manager, social worker, or other licensed healthcare professional(s).

B. Short-term or emergency housing assistance is understood as transitional in nature and for the purposes of moving or maintaining an individual or family in a long-term, stable living situation. Such assistance is limited to a cumulative period of 24 months per household. Short-term or emergency assistance must be accompanied by a strategy to:

i. Identify, relocate, and/or ensure the individual or family is moved to a long-term, stable housing; or

ii. Identify an alternate funding source for support of housing assistance.

C. Housing funds cannot be in the form of direct cash payments to recipients or services and cannot be used for mortgage payments.

D. The Ryan White HIV/AIDS Program must be the payer of last resort. In addition, funds received under the Ryan White HIV/AIDS Program must be used to supplement but not supplant funds currently being used from local, State, and Federal agency programs. Grantees must be capable of providing the HIV/AIDS Bureau (HAB) with documentation related to the use of funds as payer of last resort and the coordination of such funds with other local, State, and Federal funds.

E. Housing-related expenses are limited to Part A, Part B, and Part D of the Ryan White HIV/AIDS Program and are not allowable expenses under Part C.

F. For all clients, new or current, the 24-month cumulative period of eligibility becomes effective as of March 27, 2008. Grantees are responsible for tracking the 24-month cumulative period of eligibility beginning on that date.

Dated: February 19, 2008.
Elizabeth M. Duke,
Administrator.
 [FR Doc. E8-3607 Filed 2-25-08; 8:45 am]
BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The National Institutes of Health

Proposed Collection; Comment Request; Brain Power! The NIDA Junior Scientist Program and the Companion Program, Brain Power! Challenge

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for the opportunity for public comment on proposed data collection projects, the National Institute on Drug Abuse (NIDA), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection:
Title: Brain Power! The NIDA Junior Scientist Program, for grades K-5, and

the companion program for Middle School, the Brain Power! Challenge.
Type of Information Collection Request: This information collection request is for an EXTENSION of 0925-0542 that was obtained in 2005, and is requested for two additional years to meet scheduling availability for participating school districts. *Need and Use of Information Collection:* This is a request to evaluate the effectiveness of the Brain Power! Program's ability to (1) increase children's knowledge about the biology of the brain and the neurobiology of drug addiction, (2) increase positive attitudes toward science, careers in science, science as an enjoyable endeavor, and the use of animals in research; and stimulate interest in scientific careers; and (3) engender more realistic perceptions of scientists as being from many races, ages, and genders. The secondary goals of the evaluation are to determine the Program's impact on attitudes and intentions toward drug use. The findings will provide valuable information concerning the goals of NIDA's *Science Education Program* of increasing scientific literacy and stimulating interest in scientific careers.

In order to test the effectiveness of the evaluation, information will be collected from students before and after exposure to the curriculum with pre- and post-test self-report measures. Surveys will also be administered to teachers after the completion of the program to examine ease and fidelity of implementation, as well as impact in knowledge and understanding of the neurobiology of addiction. Surveys will be administered to parents to obtain parental reaction and opinion on the materials and the degree to which parents find the curriculum informative and appropriate. *Frequency of Response:* On occasion. *Affected Public:* Elementary and middle school students, teachers, and parents. *Type of Respondents:* Students, Teachers, and Parents. The reporting burden is as follows: *Estimated Number of Respondents:* 1,337; *Estimated Number of Responses per Respondent:* 2; *Average Burden Hours Per Response:* .25; *Estimated Total Annual Burden Hours Requested:* 640.5. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report. The estimated annualized burden is summarized below.

Type of Respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Students (K-grade 5)	640	2	.25	320
Students (grades 6-9)	560	2	.25	280
Parents (K-grade 5)	56	1	.25	14
Parents (grades 6-9)	56	1	.25	14
Teachers	25	1	.5	12.5
Total	1,337	.....	1.5	640.5

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Cathrine Sasek, Coordinator, Science Education Program, Office of Science Policy and Communications, National Institute on Drug Abuse, 6001 Executive Blvd., Room 5237, Bethesda, MD 20892, or call non-toll-free number (301) 443-6071; fax (301) 443-6277; or by e-mail to csasek@nida.nih.gov.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: February 20, 2008.
Mary Affeldt,
Associate Director for Management, National Institute for Drug Abuse.
 [FR Doc. E8-3563 Filed 2-25-08; 8:45 am]
BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group; Heart, Lung, and Blood Program Project Review Committee.

Date: March 20, 2008.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jeffrey H. Hurst, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7208, Bethesda, MD 20892-7924, 301-435-0303, hurstj@nhlbi.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 19, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08-836 Filed 2-25-08; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review

Group; Acquired Immunodeficiency Syndrome Research Review Committee, AIDS Research Review Committee March 2008 Meeting.

Date: March 25, 2008.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call). 2 17 CFR 240.19b-4.

Contact Person: Erica L. Brown, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892-7616, 301-451-2639, ebrown@niaid.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 19, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08-838 Filed 2-25-08; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The portions of the meeting devoted to the review and evaluation of journals for potential indexing by the National Library of Medicine will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended. Premature disclosure of the titles of the journals as potential titles to be indexed by the National Library of Medicine, the discussions, and the presence of individuals associated with these publications could significantly frustrate the review and evaluation of individual journals.

Name of Committee: Literature Selection Technical Review Committee.

Date: June 19-20, 2008.

Open: June 19, 2008, 9 a.m. to 11 a.m.

Agenda: Administrative reports and program discussion.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: June 19, 2008, 11 a.m. to 5 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: June 20, 2008, 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Sheldon Kotzin, MLS, Associate Director, Division of Library Operations, National Library of Medicine, 8600 Rockville Pike, Bldg 38/Room 2W06, Bethesda, MD 20894, 301-496-6921, Sheldon_Kotzin@nlm.nih.gov.

Any interested person may file written comments with the Committee by forwarding the statement to the Contact Person listed on this Notice. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons with a government I.D. will need to show a photo I.D. and sign in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: February 19, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 08-833 Filed 2-25-08; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA-2003-14610]

Extension of Agency Information Collection Activity Under OMB Review: Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Drivers License

AGENCY: Transportation Security Administration, 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 December 28, 2007, 72 FR 73865. The collection involves applicant submission of biometric and biographic information for TSA's security threat assessment in order to obtain the hazardous materials endorsement (HME) on a commercial drivers license (CDL) issued by the U.S. States and the District of Columbia.

DATES: Send your comments by March 27, 2008. A comment to OMB is most effective if OMB receives it within 30 days of publication.

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 oir_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 OMB review and approval of the following information collection, TSA is soliciting comments 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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Security Threat Assessment for Individuals Applying for a Hazardous Materials Endorsement for a Commercial Drivers License.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652-0027.

Form(s): N/A.

Affected Public: Drivers seeking a hazardous material endorsement (HME) on their commercial driver's license (CDL).

Abstract: This collection supports the implementation of section 1012 of the USA PATRIOT Act (Pub. L. 107-56, 115 Stat. 272, 396, Oct. 26, 2001), which mandates that no State or the District of Columbia may issue a HME on a CDL unless TSA has first determined the driver is not a threat to transportation security. TSA's regulations at 49 CFR part 1572 describe the procedures, standards, and eligibility criteria for security threat assessments on individuals seeking to obtain, renew, or transfer a HME on a CDL. In order to conduct the security threat assessment, States (or a TSA designated agent in States that elect to have TSA perform the collection of information) must collect information in addition to that already collected for the purpose of HME applications, which will occur once approximately every five years. The driver is required to submit an application that includes personal biographic information (for instance, height, weight, eye and hair color, date of birth); information concerning legal status, mental health defects history, military status, and criminal history; as well as fingerprints. In addition, 49 CFR part 1572 requires States to maintain a copy of the driver application for a period of one year. In this information collection renewal, TSA is amending the application to collect minor additional information, such as whether the driver is a new applicant or renewing or transferring the HME, to better understand and forecast driver retention, transfer rate, and drop-rate to help improve customer service, reduce program costs, and provide comparability with other Federal background checks, including

Transportation Workers Identification Credential (TWIC).

Number of Respondents: 348,000.

Estimated Annual Burden Hours: An estimated 3.4 million hours annually.

Issued in Arlington, Virginia, on February 19, 2008.

Fran Lozito,

Director, Business Management Office, Operational Process and Technology.

[FR Doc. E8-3631 Filed 2-25-08; 8:45 am]

BILLING CODE 9110-05-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5100-FA-15]

Announcement of Funding Awards for the Housing Choice Voucher Family Self Sufficiency Program for Fiscal Year 2007

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department for funding under the Fiscal Year (FY) 2007 Notice of Funding Availability (NOFA) for the Family Self Sufficiency (FSS) funding for FY2007. This announcement contains the consolidated names and addresses of those award recipients selected for funding based on the rating and ranking of all applications and the allocation of funding available for each state.

FOR FURTHER INFORMATION CONTACT: For questions concerning the FY2007 HCV FSS awards, contact the Office of Public and Indian Housing's Grant Management Center, Director, Iredia Hutchinson, Department of Housing and Urban Development, Washington, DC 20410-5000, telephone (202) 402-0273. For the hearing or speech impaired, these numbers may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1 (800) 877-8339. (Other than the "800" TTY number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The authority for the \$47,000,000 in one-year budget authority FSS program coordinators is found in the Departments of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, FY2007 (Pub. L. 109). The

allocation of housing assistance budget authority is pursuant to the provisions of 24 CFR part 791, subpart D, implementing section 213(d) of the Housing and Community Development Act of 1974, as amended.

This program is intended to promote the development of local strategies to coordinate the use of assistance under the Housing Choice Voucher program with public and private resources to enable participating families to achieve

economic independence and self-sufficiency. An FSS program coordinator assures that program participants are linked to the supportive services they need to achieve self-sufficiency.

The FY2007 awards announced in this notice were selected for funding in a competition announced in the NOFA published on March 13, 2007. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban

Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 618 awards made under the HCV FSS competitions.

Dated: February 7, 2008.

Paula O. Blunt,

General Deputy Assistant Secretary for Office of Public and Indian Housing.

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF SUFFICIENCY PROGRAM

Organization	Address/City/State/Zip Code	Amount
Alaska Housing Finance Corporation	P.O. Box 101020, Anchorage, AK 99510-1020	\$64,266
Housing Authority of the Birmingham District	1826 3rd Avenue South, Birmingham, AL 35233	64,266
Bessemer Housing Authority	1515 Fairfax Avenue, Bessemer, AL 35020	35,556
Florence Housing Authority	110 South Cypress Street, Suite 1, Florence, AL 35630-5551	46,809
Albertville Housing Authority	P.O. Box 1126, 711 South Broad Street, Albertville, AL 35950	41,000
Mobile Housing Board	151 South Claiborne Street, Mobile, AL 36602	78,686
Prichard Housing Authority	4559 St. Stephens Road, Eight Mile, AL 36613	45,235
Housing Authority of the City of Decatur, Alabama	100 Wilson Street Northeast, Decatur, AL 35601	34,093
Alexander City Housing Authority	2110 County Road, Alexander City, AL 35010	32,623
Tuscaloosa Housing Authority	2808 10th Avenue, Tuscaloosa, AL 35401	50,437
The Housing Authority of the City of Huntsville	200 Washington, Huntsville, AL 35804-0486	56,307
Northwest Regional Housing Authority	P.O. Box 2568, 114 Sisco Avenue, Harrison, AR 72602	39,809
Jonesboro Urban Renewal and Housing Authority	330 Union Street, Jonesboro, AR 72401	41,212
Housing Authority of the City of West Memphis	2820 Harrison Street, West Memphis, AR 72301	40,300
Wynne Housing Authority	200 Fisher Place, Wynne, AR 72396	27,052
McGehee Public Residential Housing Facilities Board	P.O. Box 725, 301 Shady Lane, McGehee, AR 71654	31,851
Housing Authority of the City of Hot Springs	P.O. Box 1257, Hot Springs, AR 71901-1257	32,968
Housing Authority of the City of Hope	720 Texas Street, Hope, AR 71801-6327	30,697
White River Regional Housing Authority	P.O. Box 650, Melbourne, AR 72556	38,430
Housing Authority of the City of Pine Bluff	2503 Bell Mead, Pine Bluff, AR 71601	74,450
Lee County Housing Authority	100 West Main, Marianna, AR 72360	23,933
Housing Authority of Lonoke County	P.O. Box 74, 617 North Greenlaw Street, Carlisle, AR 72024	36,410
Mississippi County Public Facilities Board	810 West Keiser, Osceola, AR 72370	72,955
Pope County Public Facilities Board	P.O. Box 846, 301 East 3rd Street, Russellville, AR 72811	34,992
North Little Rock Housing Authority	P.O. Box 516, 2201 Division, North Little Rock, AR 72115	107,871
Pulaski County Housing Authority	201 South Broadway, Suite 220, Little Rock, AR 72201	34,810
Fort Smith Housing Authority	2100 North 31st Street, Fort Smith, AR 72904	98,152
Family Self Sufficiency Program	P.O. Box 167, 100 Clawson Avenue, Bisbee, AZ 85603	53,845
Chandler, City of	P.O. Box 4008, Mail Stop #101, Chandler, AZ 85244-4008	53,369
City of Phoenix Housing Authority	251 West Washington, 4th Floor, Phoenix, AZ 85003	196,500
City of Scottsdale Housing Agency	7515 East 1st Street, Scottsdale, AZ 85251	54,034
City of Tempe Housing Services	21 East 6th Street, Suite 214, Tempe, AZ 85281	128,532
City of Mesa Housing Services Division	55 North Center Street, Mesa, AZ 85201	95,619
City of Tucson	P.O. Box 27210, 310 North Commerce Park Loop, Tucson, AZ 85726-7210.	116,776
Pinal County Division of Housing	970 North Eleven Mile Corner Road, Casa Grande, AZ 85222- 7242.	50,102
Housing Authority of the City of Yuma	420 South Madison Avenue, Yuma, AZ 85364	128,687
Yuma County Housing Department	8450 West Highway 95 #88, Somerton, AZ 85350	25,195
Housing Authority of Maricopa County	2024 North 7th Street, Suite 101, Phoenix, AZ 85006	44,255
Mohave, County of	P.O. Box 7000, Kingman, AZ 86402-7000	49,113
Oakland Housing Authority	1619 Harrison Street, Oakland, CA 94612	128,532
Housing Authority of the County of Alameda	22941 Atherton Street, Hayward, CA 94541-6633	196,500
Housing Authority of the County of Contra Costa	P.O. Box 2759, 3133 Estudillo Street, Martinez, CA 94553	131,000
El Dorado County Community Services	550 Main Street, Suite C, Placerville, CA 95667	93,023
Housing Authority of the City of Fresno	Post Office Box 11985, Fresno, CA 93776-1985	251,724
Housing Authority of the County of Fresno	Post Office Box 11985, Fresno, CA 93776-1985	299,981
Imperial Valley Housing Authority	1401 D Street, Brawley, CA 92227	59,947
Housing Authority of the County of Kings	P.O. Box 355, 680 North Douty Street, Hanford, CA 93232-0355	55,550
Housing Authority of the City of Glendale	141 North Glendale Avenue, Room 202, Glendale, CA 91206	65,000
Pasadena Community Development Commission	649 North Fair Oaks Avenue, Suite 202, Pasadena, CA 91103 ...	41,212
Culver City Housing Agency	9770 Culver Boulevard, Culver City, CA 90232	64,266
City of Norwalk	12035 Firestone Boulevard, Norwalk, CA 90650	62,736
City of Pomona Housing Authority	505 South Garey Avenue, Pomona, CA 91769	65,500
Pico Rivera Housing Assistance Agency	P.O. Box 1016, 6615 Passons Boulevard, Pico Rivera, CA 90660.	64,265
Housing Authority of the City of Madera	205 North G Street, Madera, CA 93637	118,848

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip Code	Amount
Housing Authority of the County of Marin	4020 Civic Center Drive, San Rafael, CA 94903	131,000
Housing Authority of the County of Monterey	123 Rico Street, Salinas, CA 93907	62,632
The City of Napa Housing Authority	P.O. Box 660, 1115 Seminary Street, Napa, CA 94559	65,500
City of Anaheim Housing Authority	201 South Anaheim Boulevard, Suite 203, Anaheim, CA 92805	127,292
Orange County Housing Authority	1770 North Broadway, Santa Ana, CA 92706	126,161
Housing Authority of the City of Santa Ana	P.O. Box 22030 (M-27), Santa Ana, CA 02702-2030	126,120
Roseville Housing Authority	311 Vernon Street, Roseville, CA 95678	64,266
Housing Authority of the County of Riverside	5555 Arlington Avenue, Riverside, CA 92504	65,000
Housing Authority of the County of San Bernardino	715 East Brier Drive, San Bernardino, CA 92408-2841	119,244
City of Oceanside Community Development Commission	300 North Coast Highway, Oceanside, CA 92054	131,000
Housing Authority of the County of San Diego	3989 Ruffin Road, San Diego, CA 92123	65,500
San Diego Housing Commission	1122 Broadway, Suite 300, San Diego, CA 92101	393,000
San Francisco Housing Authority	440 Turk Street, San Francisco, CA 94102	64,266
Housing Authority of the County of San Joaquin	P.O. Box 447, 448 South Center Street, Stockton, CA 95203	128,532
Housing Authority of the City of San Luis Obispo	487 Left Street, San Luis Obispo, CA 93401	50,059
Housing Authority of the County of San Mateo	264 Harbor Boulevard, #A, Belmont, CA 94070	131,000
Housing Authority of the City of Santa Barbara	808 Laguna Street, Santa Barbara, CA 93101	130,000
Housing Authority of the County of Santa Barbara	815 West Ocean Avenue, Lompoc, CA 93436	65,500
Housing Authority of the County of Santa Clara	505 West Julian Street, San Jose, CA 95110-2300	131,000
Housing Authority of the City of San Jose	505 West Julian Street, San Jose, CA 95110-2300	65,500
Housing Authority of the County of Santa Cruz	2931 Mission Street, Santa Cruz, CA 95060	64,266
Housing Authority of the City of Redding	P.O. Box 496071, Redding, CA 96049-6071	56,991
Shasta County Housing Authority	1450 Court Street, Suite 108, Redding, CA 96001	39,779
Fairfield Housing Authority	823-B Jefferson Street, Fairfield, CA 94533	131,000
City of Vallejo HD Housing Authority	200 Georgia Street, Vallejo, CA 94590	131,000
Housing Authority of the City of Benicia	28 Riverhill Drive, Benicia, CA 94510	125,750
Vacaville Housing Authority	40 Eldridge Avenue Suite 2, Vacaville, CA 95688	128,532
Sonoma County Community Development Commission	1440 Guerneville, Santa Rosa, CA 95403-4107	64,266
Housing Authority of the County of Stanislaus	P.O. Box 581918, 1701 Robertson Road, Modesto, CA 95358-0033	54,465
Consolidated Area Housing Authority of Sutter County	448 Garden Highway, Yuba, CA 95991	50,449
Housing Authority of the City of Oxnard	435 South D Street, Oxnard, CA 93030	61,693
Housing Authority of the City of San Buenaventura	995 Riverside Street, Ventura, CA 93001-1636	106,664
Area Housing Authority of the County of Ventura	1400 West Hillcrest Drive, Newbury Park, CA 91320	63,000
Yuba County Housing Authority	915 8th Street, Suite 130, Marysville, CA 95901	58,972
Solano County Housing Authority	40 Eldridge Avenue, Suite 2, Vacaville, CA 95688	110,900
Adams County Housing Authority	7190 Colorado Boulevard, Commerce City, CO 80022	91,219
Housing Authority of the City of Englewood	3460 South Sherman, Suite 101, Englewood, CO 80113-2664	42,844
Colorado Department of Local Affairs, Division of Housing	1313 Sherman Street, Room 518, Denver, CO 80203-2288	62,016
Housing Authority of the City of Colorado Springs	P.O. Box 1575, MC 1490, Colorado Springs, CO 80901	48,344
Jefferson County Housing Authority	7490 West 45th Avenue, Wheat Ridge, CO 80033	76,244
Lakewood Housing Authority	480 South Allison Parkway, Lakewood, CO 80226	37,371
Fort Collins Housing Authority	1715 West Mountain Avenue, Fort Collins, CO 80521	131,000
Grand Junction Housing Authority	1011 North 10th Street, Grand Junction, CO 81501	44,374
Housing Authority of the City of Pueblo	1414 North Santa Fe Avenue, Pueblo, CO 81003	41,544
Housing Authority of the City and County of Denver	777 Grant Street, Denver, CO 80203	130,764
Arvada Housing Authority	8001 Ralston Road, Arvada, CO 80002	38,122
Boulder County Housing Authority	P.O. Box 471, Boulder, CO 80306-0471	121,072
Housing Authority of the City of Aurora	10745 East Kentucky Avenue, Aurora, CO 80012	43,967
Housing Authority of the City of Norwalk	P.O. Box 508, 24½ Monroe Street, Norwalk, CT 06856-0508	194,032
West Hartford Housing Corporation	80 Shield Street, West Hartford, CT 06110	65,500
Housing Authority of the City of Ansonia	36 Main Street, Ansonia, CT 06401	103,824
Housing Authority of the City of New Haven	P.O. Box 1912, 360 Orange Street, New Haven, CT 06509-1912	54,982
Housing Authority of the City of Meriden	P.O. Box 911, 22 Church Street, Meriden, CT 06451	94,785
Housing Authority of the City of Pompano Beach	321 West Atlantic Boulevard, Pompano Beach, FL 33060	44,750
Broward County Housing Authority	4780 North State Road 7, Lauderdale Lakes, FL 33319	58,829
Deerfield Beach Housing Authority	533 South Dixie Highway, Deerfield Beach, FL 33441	15,321
Housing Authority of the City of Fort Lauderdale	437 Southwest 4th Avenue, Fort Lauderdale, FL 33315	62,394
Punta Gorda Housing Authority	414 East Charlotte Avenue, Punta Gorda, FL 33950	65,000
Jacksonville Housing Authority	1300 Broad Street, Jacksonville, FL 32202	44,863
City of Pensacola Housing Department	P.O. Box 12910, Pensacola, FL 32521-0031	30,000
Hernando County Housing Authority	2 North Broad Street, Brooksville, FL 34601-2921	39,044
Housing Authority of the City of Tampa	1529 West Main Street, Tampa, FL 33607	148,626
Housing Authority of the City of Fort Myers	4224 Michigan Avenue, Fort Myers, FL 33916	43,000
The Housing Authority of the City of Bradenton, FL	1309 6th Street West, Bradenton, FL 34205	55,800
Ocala Housing Authority	1629 Northwest 4th Street, Ocala, FL 34475	49,893
Miami-Dade Housing Agency	1401 North West 7th Street, Miami, FL 33125	64,266
Hialeah Housing Authority	75 East 6th Street, Hialeah, FL 33010	70,225
The Housing Authority of the City of Orlando, Florida	390 North Bumby Avenue, Orlando, FL 32803	98,984
Delray Beach Housing Authority	600 North Congress Avenue, Suite 310B, Delray Beach, FL 33445	45,000

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip Code	Amount
West Palm Beach Housing Authority	1715 Division Avenue, West Palm Beach, FL 33407	58,354
Boca Raton Housing Authority	201 West Palmetto Park Road, Boca Raton, FL 33432-3795	50,000
Pasco County Housing Authority	14517 7th Street, Dade City, FL 33523	32,104
Clearwater Housing Authority	908 Cleveland Street, Clearwater, FL 33755-4511	83,454
Housing Authority of Lakeland	430 Hartsell Avenue, Lakeland, FL 33815	48,817
County of Volusia	123 West Indiana Avenue, Room 302, DeLand, FL 32720	55,348
Housing Authority City of Daytona Beach	211 North Ridgewood Avenue, Daytona Beach, FL 32114	36,862
Walton County Housing Agency	312 College Avenue, Unit D, DeFuniak Springs, FL 32435	50,000
Palm Beach County Housing Authority	3432 West 45th Street, West Palm Beach, FL 33407	71,819
Hollywood Housing Authority	7350 North Davie Road Ext., Hollywood, FL 33024	19,711
Housing Authority of the City of Miami Beach	200 Alton Road, Miami Beach, FL 33139	63,000
Carrollton Housing Authority	1 Roop Street, Carrollton, GA 30117	13,520
Housing Authority of Savannah	P.O. Box 1179, Savannah, GA 31402	70,021
City of Marietta-Housing Choice Voucher Program	268 Lawrence Street, Suite 200, Marietta, GA 30253	55,577
Housing Authority of the City of Marietta	P.O. Box Drawer K, 95 Cole Street, Marietta, GA 30061	55,400
Georgia Department of Community Affairs	60 Executive Park South, Northeast, Atlanta, GA 30329	352,072
Northwest Georgia Housing Authority	800 North Fifth Avenue, Rome, GA 30162	43,329
Housing Authority of the City of College Park	2000 West Princeton Avenue, College Park, GA 30337	62,804
Housing Authority of Fulton County	10 Park Place South, Suite 550, Atlanta, GA 30303	45,193
The Housing Authority of the City of Atlanta, Georgia	230 John Wesley Dobbs Avenue, Northeast, Atlanta, GA 30303	110,682
The Housing Authority, City of Brunswick	P.O. Box 1118, Brunswick, GA 31521-1118	42,096
The Housing Authority of the City of Augusta, Georgia	1435 Walton Way, Augusta, GA 30901	99,586
City and County of Honolulu	Honolulu Hale, Honolulu, HI 96813-9926	125,549
State of Hawaii	P.O. Box 17907, Honolulu, HI 96817	65,500
Kauai, County of; DBA Kauai County Housing Agency	4444 Rice Street, Suite 330, Lihue, HI 96766-1340	126,655
Hawaii County Housing Agency	50 Wailuku Drive, Hilo, HI 96720	64,266
Eastern Iowa Regional Housing Authority	3999 Pennsylvania Avenue, Suite 200, Dubuque, IA 52002	65,000
City of Dubuque	1805 Central Avenue, Dubuque, IA 52001	68,167
Iowa City Housing Authority	410 East Washington Street, Iowa City, IA 52240	118,294
City of Cedar Rapids	1211 6th Street Southwest, Cedar Rapids, IA 52404	96,765
Des Moines Municipal Housing Agency	100 East Euclid, Suite 101, Des Moines, IA 50313-4534	65,500
Central Iowa Regional Housing Authority	1201 Gateway Drive, Grimes, IA 50111	55,837
Municipal Housing Agency of Council Bluffs, IA	505 South 6th Street, Council Bluffs, IA 51501	47,245
Southern Iowa Regional Housing Authority	219 North Pine Street, Creston, IA 50801	42,560
Mid Iowa Regional Housing Authority	1605 1st Avenue North, Suite 1, Fort Dodge, IA 50501	43,931
Municipal Housing Agency of the City of Fort Dodge	700 South 17th Street, Fort Dodge, IA 50501	96,724
Northeast Nebraska Joint HA	507 7th Street, Suite 401, Sioux City, IA 51102	73,572
City of Sioux City Housing Authority	405 6th Street, Suite 107, Sioux City, IA 51102-0447	128,532
Region XII Regional Housing Authority	P.O. Box 663, 320 East 7th Street, Carroll, IA 51401	44,750
Idaho Housing and Finance Association	P.O. Box 7899, 565 West Myrtle Street, Boise, ID 83707-1899	221,760
Ada County Housing Authority	1276 River Street Suite #300, Ada, ID 83702	110,602
Boise City Housing Authority	1276 River Street Suite #300, Boise, ID 83702	110,604
Southwestern Idaho Cooperative Housing Authority	1108 West Finch Drive, Nampa, ID 83651	132,654
Chicago Housing Authority	60 East Van Buren, Chicago, IL 60605	517,571
Dupage Housing Authority	711 East Roosevelt Road, Wheaton, IL 60187	87,574
Kankakee County Housing Authority	P.O. Box 965, 185 N. Street Joseph Avenue, Kankakee, IL 60901-0965	42,428
Housing Authority of Marion County	719 East Howard, Centralia, IL 68201	43,451
Housing Authority of the City of Bloomington	104 East Wood Street, Bloomington, IL 61701	50,258
Menard County Housing Authority	P.O. Box 168, 101 West Sheridan, Petersburg, IL 62675	35,000
Peoria Housing Authority	100 South Richard Pryor Place, Peoria, IL 61605	47,736
Housing Authority of the City of Rock Island	227 21st Street, Rock Island, IL 61201	64,266
Springfield Housing Authority	200 North Eleventh Street, Springfield, IL 62703	42,844
Housing Authority of the City of East St. Louis	700 North 20th Street, East St. Louis, IL 62205-1814	63,630
Rockford Housing Authority	223 South Winnebago Street, Rockford, IL 61102	182,934
Housing Authority of the City of Fort Wayne, Indiana	P.O. Box 13489, 7315 South Hanna Street, Fort Wayne, IN 46869-3489	97,050
Columbus Housing Authority	1531 13th Street, Suite G600, Columbus, IN 47201-1300	53,508
Logansport Housing Authority	719 Spencer Street, Suite 100, Logansport, IN 46947	29,121
Housing Authority of the City of Goshen	1101 West Lincoln Avenue, Suite 100, Goshen, IN 46526	98,925
Housing Authority City of Elkhart	1396 Benham Avenue, Elkhart, IN 46516	85,304
Housing Authority of the City of Marion, IN	601 South Adams Street, Marion, IN 46953	34,155
Kokomo Housing Authority of the City of Kokomo, IN	P.O. Box 1207, 210 East Taylor Street, Kokomo, IN 46903-1207	40,432
Housing Authority City of Vincennes	P.O. Box 1636, 501 Hart Street, Vincennes, IN 47591	84,704
Knox County Housing Authority	11 Powell Street, Bicknell, IN 47512	31,524
Housing Authority of the City of Hammond	1402 173rd Street, Hammond, IN 46324	57,671
The Michigan City Housing Authority	621 East Michigan Boulevard, Michigan City, IN 46360	39,000
Indianapolis Housing Agency	1919 North Meridian Street, Indianapolis, IN 46202	209,929
Housing Authority City of Peru	701 East Main Street, Peru, IN 46970	34,528
Housing Authority of the City of Bloomington	1007 North Summit Street, Bloomington, IN 47404	89,256
Housing Authority of South Bend	501 Alonzo Watson Drive, South Bend, IN 46601	36,024

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip Code	Amount
Lafayette Housing Authority	P.O. Box 6687, 100 Executive Drive, Suite J, Lafayette, IN 47905.	39,299
Housing Authority of the City of Terre Haute	P.O. Box 3086, One Dreiser Square, Terre Haute, IN 47803-0086.	109,533
Lawrence-Douglas County Housing Authority	1600 Haskell Avenue, Lawrence, KS 66044	73,111
Olathe, City of	P.O. Box 768, 201 North Cherry, Olathe, KS 66051-0768	47,975
Manhattan Housing Authority	P.O. Box 1024, 300 North 5th Street, Manhattan, KS 66505	36,643
Salina Housing Authority	469 South 5th Street, Salina, KS 67401	55,550
City of Wichita Kansas	332 North Riverview, Wichita, KS 67203	172,912
Topeka Housing Authority	2010 Southeast California Avenue, Topeka, KS 66607	42,298
Pineville/Bell County Urban Renewal and Community Development Agency	114 West Kentucky Avenue, Pineville, KY 40977	31,109
Boone County Fiscal Court	P.O. Box 536, Burlington, KY 41005	63,630
Campbell County Department of Housing	P.O. Box 424, 1010 Monmouth Street, Newport, KY 41071	46,909
Lexington-Fayette Urban County Housing Authority	300 West New Circle Road, Lexington, KY 40505-1428	48,558
Housing Authority of Floyd County	402 John M. Stumbo Drive, Langley, KY 41645	30,000
Housing Authority of Cynthiana	148 Federal Street, Cynthiana, KY 41031-1420	49,904
Louisville Metro Housing Authority	420 South Eighth Street, Louisville, KY 40203	375,234
City of Covington CDA	638 Maidson Avenue, 2nd Floor, Covington, KY 41011	50,000
Barbourville Urban Renewal & CDA	P.O. Box 806, 338 Court Square, Barbourville, KY 40906	31,743
Cumberland Valley Regional Housing Authority	P.O. Box 806, 338 Court Square, Barbourville, KY 40906	46,141
City of Richmond Section 8 Housing	P.O. Box 250, Richmond, KY 40475-0250	35,380
City of Paducah Section 8 Housing	P.O. Box 2267, 300 South 5th Street, Room 208, Paducah, KY 42002-2267.	37,452
Housing Authority of Somerset	P.O. Box 449, Somerset, KY 42502	82,200
Georgetown Housing Authority	139 Scorggin Park, Georgetown, KY 40324	45,000
Campbellsville Housing & Redevelopment Authority	400 Ingram Avenue, Campbellsville, KY 42718	27,797
Kentucky Housing Corporation	1231 Louisville Road, Frankfort, KY 40601	149,444
Calcasieu Parish Police Jury Housing Department	1011 Lakeshore Drive, Suite 602, Lake Charles, LA 70601	58,287
Jefferson Parish Housing Authority	1718 Betty Street, Marrero, LA 70072	106,090
Housing Authority of the Parish of Natchitoches	525 Fourth Street, Natchitoches, LA 71457	45,456
Housing Authority of New Orleans	4100 Touro Street, New Orleans, LA 70122	75,214
Housing Authority of the City of Monroe	300 Harrison Street, Monroe, LA 71201-7441	26,420
Terrebonne, Parish of	809 Barrow Street, Houma, LA 70360-4722	42,200
Attleboro Housing Authority	37 Carlon Street, Attleboro, MA 02703	53,025
Taunton Housing Authority	30 Olney Street, Suite B, Taunton, MA 02780	65,500
Methuen Housing Authority	24 Mystic Street, Methuen, MA 01844	44,746
Gloucester Housing Authority	P.O. Box 1599, 259 Washington Street, Gloucester, MA 01931-1599.	41,690
Lynn Housing Authority & Neighborhood Development	10 Church Street, Lynn, MA 01902	58,856
North Andover Housing Authority	One Morkeski Meadows, North Andover, MA 01845	43,000
Greenfield Housing Authority	1 Elm Terrace, Greenfield, MA 01301-2203	122,643
Holyoke Housing Authority	475 Maple Street, Suite One, Holyoke, MA 01040	97,422
Chelmsford Housing Authority	10 Wilson Street, Chelmsford, MA 01824	45,006
Lowell Housing Authority	P.O. Box 60, 350 Moody Street, Lowell, MA 01853	119,180
Wakefield Housing Authority	26 Crescent Street, Wakefield, MA 01880	8,705
Framingham Housing Authority	1 John J. Brady Drive, Framingham, MA 01702	65,000
Somerville Housing Authority	30 Memorial Road, Somerville, MA 02145	46,831
Woburn Housing Authority	59 Campbell Street, Woburn, MA 01801	116,952
Quincy Housing Authority	80 Clay Street, Quincy, MA 02170-2799	65,500
Braintree Housing Authority	25 Roosevelt Street, Braintree, MA 02184-8663	65,145
Dedham Housing Authority	163 Dedham Boulevard, Dedham, MA 02026	64,266
Plymouth Housing Authority	P.O. Box 3537, 69 Allerton Street, Plymouth, MA 02361-3537	45,000
Brockton Housing Authority	45 Goddard Road, Brockton, MA 02301	128,520
Commonwealth of Massachusetts	100 Cambridge Street, Suite 300, Boston, MA 02114	538,379
Chelsea Housing Authority	54 Locke Street, Chelsea, MA 02150-2250	63,630
Gardner Housing Authority	116 Church Street, Gardner, MA 01440	49,271
Worcester Housing Authority	40 Belmont Street, Worcester, MA 01605	63,720
Leominster Housing Authority	100 Main Street, Leominster, MA 01453	46,831
Acton Housing Authority	P.O. Box 681, 68 Windsor Avenue, Acton, MA 01720	43,640
Melrose Housing Authority	910 Main Street, Melrose, MA 02176	30,300
Boston Housing Authority	52 Chauncy Street, Boston, MA 02111	189,972
Maryland Department of Housing and Community Development	100 Community Place, Crownsville, MD 21032	36,786
Baltimore County Department of Social Services Housing Office	6401 York Road, Baltimore, MD 21212	127,599
Housing Authority of Calvert County	P.O. Box 2509, 480 Main Street, Prince Frederick, MD 20678	51,509
City of Westminster	56 West Main Street, Westminster, MD 21157	43,272
Commissioners of Carroll County	225 North Center Street, Westminster, MD 21157	52,488
Cecil County Housing Agency	129 East Main Street, Elkton, MD 21921	50,504
Housing Authority of the City of Frederick	209 Madison Street, Frederick, MD 21758	99,913
Harford County	15 South Main Street, Suite 106, Bel Air, MD 21014	98,650
Howard County Government	6751 Columbia Gateway Drive, 3rd Floor, Columbia, MD 21046	123,530

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip Code	Amount
Housing Opportunities Commission	10400 Detrick Avenue, Kensington, MD 20895	397,031
Queen Anne's County Housing Authority	P.O. Box 327, Centreville, MD 21617	42,624
Housing Authority of St. Mary's County, Maryland	P.O. Box 653, 41650 Tudor Hall Road, Leonardtown, MD 20650	43,723
Housing Authority of the City of Hagerstown	35 West Baltimore Street, Hagerstown, MD 21740	49,180
Housing Authority of Washington County	44 North Potomac Street, Hagerstown, MD 21740	30,153
Housing Authority of Baltimore City	417 East Fayette Street, Baltimore, MD 21202	64,266
Lewiston Housing Authority	1 College Street, Lewiston, ME 04240	8,869
City of Caribou	25 High Street, Caribou, ME 04736	47,296
Portland Housing Authority	14 Baxter Boulevard, Portland, ME 04101	51,301
Westbrook Housing Authority	30 Liza Harmon Drive, Westbrook, ME 04092	39,413
Augusta Housing Authority	33 Union Street, Suite 3, Augusta, ME 04330-6800	31,530
Maine State Housing Authority	353 Water Street, Augusta, ME 04330	54,033
Bangor Housing Authority	161 Davis Road, Bangor, ME 04401	44,211
Michigan State Housing Development Authority	P.O. Box 30044, 735 East Michigan Avenue, Lansing, MI 48909	524,000
Grand Rapids Housing Commission	1420 Fuller Avenue, Southeast, Grand Rapids, MI 49507	124,414
Kent County Housing Commission	82 Ionia Avenue, Northwest, Grand Rapids, MI 49503	114,776
Wyoming Housing Commission	2450 36th Street, Southwest, Wyoming, MI 49519	65,500
Pontiac Housing Commission	132 Franklin Boulevard, Pontiac, MI 48341	47,150
Saginaw Housing Commission	1803 Norman Street, Saginaw, MI 48605-3225	84,788
Plymouth Housing Commission	1160 Sheridan, Plymouth, MI 48170-1560	43,163
City of Westland	32715 Dorsey, Westland, MI 48186	32,468
Muskegon Housing Commission	1080 Terrace, Muskegon, MI 49442	42,884
Mankato Economic Development Authority	P.O. Box 3368, 10 Civic Center Plaza, Mankato, MN 56002-3368.	103,545
South Central MN Multi-County HRA	410 Jackson Street, Suite 300, Mankato, MN 56001	74,219
Housing & Redevelopment Authority of Clay County	P.O. Box 99, 116 Center Avenue East, Dilworth, MN 56529	63,814
Brainerd Housing and Redevelopment Authority	324 East River Road, Brainerd, MN 56401	43,018
Dakota County Community Development Agency	1228 Town Centre Drive, Eagan, MN 55123	24,145
Housing Authority of St. Louis Park	5005 Minnetonka Boulevard, St. Louis Park, MN 55416-2216	19,955
Northwest Minnesota Multi-County HRA	P.O. Box 128, 205 Garfield Avenue, Mentor, MN 56736	37,337
Metropolitan Council	390 Robert Street North, St. Paul, MN 55101	62,017
Housing & Redevelopment Authority of Duluth, MN	P.O. Box 16900, 222 East Second Street, Duluth, MN 55816-0900.	46,266
Southeastern Minnesota Multi-County HRA	134 East Second Street, Wabasha, MN 55981	35,354
Washington County Housing and Redevelopment Authority	321 Broadway Avenue, St. Paul Park, MN 55071	33,855
Scott County Housing and Redevelopment Authority	323 South Naumkeag Street, Shakopee, MN 55379-1652	50,500
Housing and Redevelopment Authority of Virginia	P.O. Box 1148, Pine Mill Court, Virginia, MN 55792-3097	56,986
Housing Authority of the City of Columbia, Missouri	201 Switzler Street, Columbia, MO 65203	40,318
Ripley County Public Housing Agency	3019 Fair Street, Poplar Bluff, MO 63901-7044	33,207
Housing Authority of the City of Liberty, Missouri	17 East Kansas Street, Liberty, MO 64068	43,332
Housing Authority of Kansas City, Missouri	301 East Armour, Kansas City, MO 64111	143,360
Jasper County Public Housing Authority	P.O. Box 207, 302 Joplin Street, Joplin, MO 64802-0207	27,362
Franklin County Public Housing	P.O. Box 920, Hillsboro, MO 63050	42,144
Phelps County Public Housing Agency	#4 Industrial Drive, St. James, MO 65559	52,928
North East Community Action Corp., dba Lincoln County PHA	16 North Court Street, P.O. Box 470, Bowling Green, MO 63334	110,266
Housing Authority of St. Louis County	8865 Natural Bridge Road, St. Louis, MO 63121	93,111
St. Clair County PHA	P.O. Box 125, 106 West Fourth Street, Appleton City, MO 64724	111,316
Saint Francois County Public Housing Agency	P.O. Box N, 107 Industrial Drive, Park Hills, MO 63601	30,603
Housing Authority of the City of Springfield, Missouri	421 West Madison Street, Springfield, MO 65806	26,036
St. Louis Housing Authority	4100 Lindell Boulevard, St. Louis, MO 63108	51,645
Tennessee Valley Regional Housing Authority	P.O. Box 1329, Corinth, MS 38835	87,298
North Delta Regional Housing Authority	P.O. Box 1148, #4 East Second Street, Clarksdale, MS 38614	36,360
The Housing Authority of the City of Biloxi	P.O. Box 447, 330 Benachi Avenue, Biloxi, MS 39533-0447	40,400
Mississippi Regional Housing Authority VI	P.O. Drawer 8746, 2180 Terry Road, Jackson, MS 39284-8746	106,218
The Housing Authority of the City of Meridian	2425 E Street, Meridian, MS 39301	48,480
Mississippi Regional Housing Authority IV	P.O. Box 1051, Columbus, MS 39703	37,096
MS Regional Housing Authority No. V	298 Northside Drive, P.O. Box 419, Newton, MS 39345-0419	32,252
Mississippi Regional Housing Authority Number VII	P.O. Box 430, McComb, MS 39649	58,674
The Housing Authority of the City of Jackson, MS	2747 Livingston Road, Jackson, MS 39213	50,699
Missoula Housing Authority	1235 34th Street, Missoula, MT 59801	131,000
Housing Authority of Billings	2415 First Avenue North, Billings, MT 59101	39,843
Housing Authority of the City of Asheville	165 South French Broad Avenue, Asheville, NC 28801	70,892
City of Concord Housing Department	P.O. Box 308, 283 Harold Goodman Circle, Concord, NC 28026-0308.	37,034
Coastal Community Action, Inc	P.O. Box 729, 303 McQueen Avenue, Newport, NC 28570	36,556
Chatham County Housing Authority	P.O. Box 637, 190 Sanford Road, Pittsboro, NC 27312-0637	46,966
Twin Rivers Opportunities, Inc	318 Craven Street, New Bern, NC 28563	74,688
Housing Authority of the City of Winston-Salem	500 West Fourth Street, Winston-Salem, NC 27101	52,550
Housing Authority of the City of High Point	500 East Russell Avenue, High Point, NC 27261	44,686
Greensboro Housing Authority	P.O. Box 21287, 450 North Church Street, Greensboro, NC 27420-1287.	121,742

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip Code	Amount
Mountain Projects Inc	2251 Old Balsam Road, Waynesville, NC 28779	32,778
Western Carolina Community Action	P.O. Box 685, 220 King Creek Boulevard, Hendersonville, NC 28793-0685.	63,809
Sanford Housing Authority	1000 Carthage Street, Sanford, NC 27330	43,354
Housing Authority of the City of Charlotte	1301 South Boulevard, Charlotte, NC 28203	46,814
Sandhills Community Action Program, Inc	103 Saunders Street, Carthage, NC 28327	32,597
Eastern Carolina Human Services Agency, Inc	246 Georgetown Road, Jacksonville, NC 28540	65,127
Housing Authority of the City of Greenville, NC	1103 Broad Street, Greenville, NC 27834	58,860
East Spencer Housing Authority	P.O. Box 367, 206 South Long Street, East Spencer, NC 28039	44,200
Isothermal Planning & Development Commission	P.O. Box 841, 111 West Court Street, Rutherfordton, NC 28139-0841.	34,723
Housing Authority of the Town of Laurinburg	1300 Woodlawn Street, Laurinburg, NC 28352	118,494
Housing Authority of the City of Kinston, North Carolina	608 North Queen Street, Kinston, NC 28501	40,506
Northwestern Regional Housing Authority	869 Highway 105 Extension, Suite 10, Boone, NC 28607	202,811
Housing Authority of the City of Wilmington, NC	1524 South 16th Street, Wilmington, NC 28451	98,953
Fargo Housing and Redevelopment Authority	325 Broadway, Fargo, ND 58102	40,536
The Housing Authority of the City of Grand Forks ND	1405 1 Avenue North, Grand Forks, ND 58203	146,306
Minot Housing Authority	108 Burdick Expressway East, Minot, ND 58701	41,915
Douglas County Housing Authority	5404 North 107th Place, Omaha, NE 68134-1148	51,000
Housing Authority of the City of Omaha	540 South 27th Street, Omaha, NE 68106-1549	84,932
Housing Authority of the City of Lincoln, Nebraska	P.O. Box 5327, 5700 R Street, Lincoln, NE 68505	59,159
Goldenrod Regional Housing Authority	P.O. Box 799, 1017 Ave E, Wisner, NE 68791	35,350
Manchester Housing and Redevelopment Authority	198 Hanover Street, Manchester, NH 03104	43,674
New Hampshire Housing Finance Authority	32 Constitution Drive, Bedford, NH 03110	220,217
Dover Housing Authority	62 Whittier Street, Dover, NH 03820	65,000
Atlantic City Housing Authority	P.O. Box 1258, 277 North Vermont Avenue, 17th Floor, Atlantic City, NJ 08401.	87,384
Fort Lee Housing Authority	1403 Teresa Drive, Fort Lee, NJ 07024	98,980
County of Burlington, New Jersey	P.O. Box 6000, Mount Holly, NJ 08060	65,500
Housing Authority of the City of Camden	2021 Watson Street, 2nd Floor, Camden, NJ 08105	39,543
Millville Housing Authority	P.O. Box 803, 309 Buck Street, Millville, NJ 08332	45,450
Housing Authority of the City of East Orange	160 Halsted Street, East Orange, NJ 07018	128,532
Housing Authority of the Borough of Glassboro	737 Lincoln Boulevard, Glassboro, NJ 08028	46,657
Housing Authority of Gloucester County	100 Pop Moylan Boulevard, Deptford, NJ 08056	84,248
Housing Authority of the City of Jersey City	400 U.S. Highway #1, Jersey City, NJ 07306	111,816
NJ Department of Community Affairs	P.O. Box 051, 101 South Broad Street, Trenton, NJ 08625-0051	786,000
Housing Authority of the City of Perth Amboy	P.O. Box 390, 881 Amboy Avenue, Perth Amboy, NJ 08862	170,588
Housing Authority of the Township of Woodbridge	20 Burns Lane, Woodbridge, NJ 07095	21,631
Monmouth County Public Housing Agency	3000 Kozloski Road, Freehold, NJ 07728	128,532
Housing Authority of Long Branch	P.O. Box 337, Long Branch, NJ 07740	95,359
Housing Authority County of Morris	99 Ketch Road, Morristown, NJ 07960	31,530
Housing Authority of the Borough of Madison	15 Chateau Thierry Avenue, Madison, NJ 07940	53,609
Housing Authority of the Town of Boonton	125 Chestnut Street, Boonton, NJ 07005-1107	64,266
Housing Authority Town of Dover	215 East Blackwell Street, Dover, NJ 07801	62,925
Lakewood Tenants Organization, Inc	P.O. Box 856, 600 West Kennedy Boulevard, Lakewood, NJ 08701.	114,546
Housing Authority of the Township of Brick	165 Chambers Bridge Road, Brick, NJ 08723	15,578
Lakewood Housing Authority	P.O. Box 1599, 317 Sampson Avenue, Lakewood, NJ 08701	64,266
Housing Authority of the City of Paterson	60 Van Houten Street, Paterson, NJ 07505	49,395
The Housing Authority of Plainfield	510 East Front Street, Plainfield, NJ 07060	65,500
Housing Authority of the City of Orange	340 Thomas Boulevard, Orange, NJ 07050	65,500
Bernalillo County Housing Department	1900 Bridge Boulevard Southwest, Albuquerque, NM 87105	114,888
Region VI Housing Authority	106 East Reed, Roswell, NM 88203	54,630
Clovis Housing & Redevelopment Agency, Inc	P.O. Box 1240, 2101 West Grand Avenue, Clovis, NM 88102-1240.	40,400
Santa Fe County Housing Authority	52 Camino de Jacobo, Santa Fe, NM 87507-3546	108,780
Sante Fe Civic Housing Authority	664 Alta Vista Street, Sante Fe, NM 87505	65,000
Truth or Consequences Housing Authority	108 Cedar, Truth or Consequences, NM 87901	44,746
Taos County Housing Authority	525 Ranchitos Road, Taos, NM 87571	46,460
Housing Authority of the City of Las Vegas	340 North 11th Street, Las Vegas, NV 89101	191,268
Housing Authority of the County of Clark, Nevada	5390 East Flamingo Road, Las Vegas, NV 89122	109,275
Housing Authority of the City of Reno	1525 East 9th Street, Reno, NV 89512-3012	43,023
Housing Authority of the City of North Las Vegas	1632 Yale Street, North Las Vegas, NV 89030	110,410
Cohoes Housing Authority	100 Manor Sites, Cohoes, NY 12047	46,919
Town of Colonie	Memorial Town Hall, Newtonville, NY 12128	51,054
Town of Guilderland	Town Hall Route 20, Guilderland, NY 12084	50,500
Jamestown Housing Authority	110 West Third Street, Jamestown, NY 16365	34,000
City of North Tonawanda PHA, Belmont Shelter Corp., Agent	1195 Main Street, Buffalo, NY 14209	47,154
Erie County PHA Consortium, Belmont Shelter Corp	1195 Main Street, Buffalo, NY 14209	143,215
Rental Assistance Corporation of Buffalo	470 Franklin Street, Buffalo, NY 14202	143,600
Buffalo Municipal Housing Authority	300 Perry Street, Buffalo, NY 14204	64,250

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip Code	Amount
City of Johnstown	41 East Main Street, Johnstown, NY 12095	32,000
Gloversville Housing Authority	181 West Street, Gloversville, NY 12078	47,752
Rochester Housing Authority	675 West Main Street, Rochester, NY 14611	215,896
Amsterdam Housing Authority	52 Division Street, Amsterdam, NY 12010	48,944
Town of Huntington Housing Authority	1 A Lowndes Avenue, Huntington Station, NY 11746	59,590
North Hempstead Housing Authority Inc	Pond Hill Road, Great Neck, NY 11020-1599	50,500
New York State HFA/Division of Housing & Community Renewal	25 Beaver Street, Room 732, New York, NY 10004	221,246
New York State HFA/Division of Housing & Community Renewal	25 Beaver Street, Room 732, New York, NY 10004	921,010
Syracuse Housing Authority	516 Burt Street, Syracuse, NY 13202	116,426
Geneva Housing Authority	P.O. Box 153, 41 Lewis Street, Geneva, NY 14456	49,427
Village of Highland Falls	303 Main Street, Highland Falls, NY 10928	32,000
Village of Kiryas Joel Housing Authority	51 Forest Road, Suite 360, Monroe, NY 10950	64,265
City of Oswego Community Development Office	20 West Oneida Street, 3rd Floor, Oswego, NY 13126	45,753
City of Fulton Community Development Agency	125 West Broadway, Fulton, NY 13069	29,917
Troy Housing Authority	One Eddy's Lane, Troy, NY 12180	65,064
Mechanicville Housing Authority	Harris Avenue, Mechanicville, NY 12118	32,000
Village of Ballston Spa	66 Front Street, Ballston Spa, NY 12020	32,320
Village of Corinth	260 Main Street, Corinth, NY 12822	32,259
Village of Scotia	4 North Ten Broeck Street, Scotia, NY 12302	27,933
Municipal Housing Authority of the City of Schenectady	375 Broadway, Schenectady, NY 12305	92,846
Town of Rotterdam	Town Hall-Vinewood Avenue, Schenectady, NY 12306	53,185
North Fork Housing Alliance, Inc	116 South Street, Greenport, NY 11944	37,500
Town of Smithtown	99 West Main Street, Smithtown, NY 11787	48,244
Town of Babylon Housing Assistance Agency	281 Phelps Lane, Room #9, North Babylon, NY 11703	48,131
Monticello Housing Authority	76 Evergreen Drive, Monticello, NY 12701	35,000
Ithaca Housing Authority	800 South Plain Street, Ithaca, NY 14850	61,941
New Rochelle Municipal Housing Authority	50 Sickles Avenue, New Rochelle, NY 10801-3416	63,630
Albany Housing Authority	200 South Pearl Street, Albany, NY 12202-1834	144,750
City of Utica Section 8 Program	1 Kennedy Plaza, Utica, NY 13502	29,429
Town of Poughkeepsie Section 8 Housing Program NY568	1 Overocker Road, Poughkeepsie, NY 12603	52,306
Adams Metropolitan Housing Authority	401 East Seventh Street, Manchester, OH 45144	38,519
Allen Metropolitan Housing Authority	600 South Main Street, Lima, OH 45804	38,340
City of Middletown	1040 Central Avenue, Middletown, OH 45044	39,939
Springfield Metropolitan Housing Authority	101 West High Street, Springfield, OH 45502	43,332
Clinton Metropolitan Housing Authority	478 Thorne Avenue, Wilmington, OH 45177-1222	45,000
Parma Public Housing Agency	1440 Snow Road, Room 306, Parma, OH 44134	40,000
Cuyahoga Metropolitan Housing Authority	3400 Hamilton Avenue, Cleveland, OH 44114	44,142
Delaware Metropolitan Housing Authority	P.O. Box 1292, 222 Curtis Street, Delaware, OH 43015-1292	45,619
Erie Metropolitan Housing Authority	322 Warren Street, Sandusky, OH 44870	50,132
Fairfield Metropolitan Housing Authority	315 North Columbus Street, Suite 200, Lancaster, OH 43130	46,823
Fayette Metropolitan Housing Authority	121 East Street, Washington CH, OH 43160	32,581
Cambridge Metropolitan Housing Authority	P.O. Box 1388, 1100 Maple Court, Cambridge, OH 43725	31,934
CMHA	16 West Central Parkway, Cincinnati, OH 45202-7210	207,819
Jackson Metropolitan Housing Authority	P.O. Box 619, 249 West 13th Street, Wellston, OH 45692	39,452
Jefferson Metropolitan Housing Authority	815 North 6th Avenue, Steubenville, OH 43952	28,000
Knox Metropolitan Housing Authority	236 South Main Street, Suite 201, Mount Vernon, OH 43050	44,884
Lake Metropolitan Housing Authority	189 First Street, Painesville, OH 44077	76,450
Logan County Metropolitan Housing Authority	116 N. Everett St., Bellefontaine, OH 43311	73,576
Lorain Metropolitan Housing Authority	1600 Kansas Avenue, Lorain, OH 44052	48,147
Lucas Metropolitan Housing Authority	P.O. Box 477, 435 Nebraska, Toledo, OH 43604-0477	173,954
Medina Metropolitan Housing Authority	850 Walter Road, Medina, OH 44256	118,090
Dayton Metropolitan Housing Authority	P.O. Box 8750, 400 Wayne Avenue, Dayton, OH 45401-8750	118,160
Morgan Metropolitan Housing Authority	4580 North Street, Route 376, Northwest, McConnellsville, OH 43756	45,193
Morrow Metropolitan Housing Authority	81 North Rich Street, Mt. Gilead, OH 43338	36,485
Zanesville Metropolitan Housing Authority	407 Pershing Road, Zanesville, OH 43701	107,767
Wayne Metropolitan Housing Authority	345 North Market Street, Wooster, OH 44691	42,248
Pickaway Metro Housing Authority	176 Rustic Drive, Circleville, OH 43113	34,918
Pike Metropolitan Housing Authority	2626 Shyville Road, Piketon, OH 45661	33,000
Portage Metropolitan Housing Authority	2832 State Route 59, Ravenna, OH 44266	37,331
Chillicothe Metropolitan Housing Authority	178 West Fourth Street, Chillicothe, OH 45601	33,630
Akron Metropolitan Housing Authority	100 West Cedar Street, Akron, OH 44307	231,078
Trumbull Metropolitan Housing Authority	4076 Youngstown Road, Suite 101, Warren, OH 44484	64,266
Tuscarawas Metropolitan Housing Authority	134 Second Street Southwest, New Philadelphia, OH 44663	54,062
Vinton Metropolitan Housing Authority	Post Office Box 487, 310 West High Street, McArthur, OH 45651	115,239
Meigs Housing Authority	117 East Memorial Drive, Pomeroy, OH 45769	14,360
Housing Authority of the City of Norman	700 North Berry Road, Norman, OK 73069	47,766
Housing Authority of the City of Broken Bow	710 East Third Street, Broken Bow, OK 74728	23,000
Oklahoma Housing Finance Agency	100 Northwest 63rd Street, Suite 200, Oklahoma, OK 73116	89,768
Oklahoma City Housing Authority	1700 Northeast Fourth Street, Oklahoma City, OK 73117	56,998
Housing Authority of the City of Stillwater	807 South Lowry, Stillwater, OK 74074	42,998

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip Code	Amount
Housing Authority of the City of Shawnee, OK	P.O. Box 3427, 601 West 7th Street, Shawnee, OK 74801	49,699
Housing Authority of the City of Tulsa	415 East Independence Street, Tulsa, OK 74106	38,139
Housing Authority of Clackamas County	P.O. Box 1510, Oregon City, OR 97045-0510	64,245
Northwest Oregon Housing Authority	P.O. Box 1149, 147 South Main Avenue, Warrenton, OR 97146	32,532
Central Oregon Regional Housing Authority	405 South West 6th Street, Redmond, OR 97756	131,000
Housing Authority of Douglas County	904 West Stanton, Roseburg, OR 97470	53,555
Housing Authority of Jackson County	2251 Table Rock Road, Medford, OR 97501	91,586
Housing Authority & Community Services Agency of Lane County.	177 Day Island Road, Eugene, OR 97401	104,577
Housing Authority of Lincoln County	P.O. Box 1470, 1039 Northwest Nye Street, Newport, OR 97365	35,307
Linn-Benton Housing Authority	1250 Queen Avenue Southeast, Albany, OR 97322	117,128
Housing Authority of Malheur County	959 Fortner Street, Ontario, OR 97914	22,923
Housing Authority of the City of Salem	360 Church Street SE, Salem, OR 97301	192,390
Marion County Housing Authority	P.O. Box 14500, 555 Court Street, Northeast, Salem, OR 97309-5036.	53,000
Housing Authority of Portland (HAP)	135 Southwest Ash Street, Portland, OR 97204	246,640
Housing Authority and Urban Renewal Agency of Polk County	P.O. Box 467, 204 Southwest Walnut Avenue, Dallas, OR 97338	33,058
Northeast Oregon Housing Authority	P.O. Box 3357, 2608 May Lane, LaGrande, OR 97850	82,502
Housing Authority of Washington County	111 Northeast Lincoln, Suite 200-L, Hillsboro, OR 97124	100,096
Housing Authority of Yamhill County	P.O. Box 865, 135 Northeast Dunn Place, McMinnville, OR 97128-0865.	164,467
Mid Columbia Housing Authority	312 Court Street, Suite 419, The Dalles, OR 97058	81,376
Adams County Housing Authority	40 East High Street, Gettysburg, PA 17325	46,827
Allegheny County Housing Authority	625 Stanwix Street, Pittsburgh, PA 15243	97,914
Housing Authority of the County of Armstrong	350 South Jefferson Street, Kittanning, PA 16201	25,806
Housing Authority of the County of Butler	114 Woody Drive, Butler, PA 16001	88,282
Housing Authority of the County of Chester	30 West Barnard Street, Suite 2, West Chester, PA 19382	99,976
Clarion County Housing Authority	8 West Main Street, Clarion, PA 16214	39,439
Housing/Redevelopment Authority of Cumberland County	114 North Hanover Street, Carlisle, PA 17013	39,160
Housing Authority of the County of Dauphin	P.O. Box 7598, 501 Mohn Street, Dauphin, PA 17113-0598	119,112
Delaware County Housing Authority	1855 Constitution Avenue, Woodlyn, PA 19094-0100	42,640
Housing Authority of the City of Erie	606 Holland Street, Erie, PA 16501-1285	45,000
Fayette County Housing Authority	624 Pittsburgh Road, Uniontown, PA 15401	40,000
Housing Authority of the City of Lancaster	325 Church Street, Lancaster, PA 17602	50,777
Lancaster County Housing Authority	150 North Queen Street, Suite 110, Lancaster, PA 17603	101,554
Housing Authority of the County of Lycoming	1941 Lincoln Drive, Williamsport, PA 17701	20,282
Montgomery County Housing Authority	104 West Main Street, Suite 1, Norristown, PA 19401	105,456
Housing Authority of Northumberland County	50 Mahoning Street, Milton, PA 17847	32,878
Philadelphia Housing Authority	12 South 23rd Street, Philadelphia, PA 19103	288,334
Housing Authority of the County of Union	1610 Industrial Boulevard, Suite 400, Lewisburg, PA 17837	45,919
Westmoreland County Housing Authority	154 South Greengate Road, Greensburg, PA 15601-6392	75,172
Housing Authority of the City of York	P.O. Box 1963, 31 South Broad Street, York, PA 17403	40,304
Altoona Housing Authority	2700 Pleasant Valley Boulevard, Altoona, PA 16602	55,023
Municipality of Aguas Buenas	P.O. Box 128, Aguas Buenas, PR 00703	22,879
Municipality of Juana Diaz	#35 Degetau Street, Juana Diaz, PR 00795	23,422
Municipality of Yabucoa	Post Office Box 97, Yabucoa, PR 00767	25,642
East Providence Housing Authority	99 Goldsmith Avenue, East Providence, RI 02914	38,380
Housing Authority of the Town of East Greenwich	146 First Avenue, East Greenwich, RI 02818	54,882
Central Falls Housing Authority	30 Washington Street, Central Falls, RI 02863	62,825
Cumberland Housing Authority	573 Mendon Road, Suite 4, Cumberland, RI 02864	49,410
Housing Authority of the City of Providence	100 Broad Street, Providence, RI 02903	123,988
Housing Authority of the City of Pawtucket	214 Roosevelt Avenue, Pawtucket, RI 02860	55,000
Narragansett Housing Authority	25 Fifth Avenue, Narragansett, RI 02882	75,671
Town of North Providence Housing Authority	945 Charles Street, North Providence, RI 02904	54,605
Coventry Housing Authority	14 Manchester Circle, Coventry, RI 02816	50,055
Rhode Island Housing	44 Washington Street, Providence, RI 02903	64,266
Housing Authority of Anderson	1335 East River Street, Anderson, SC 29621	37,486
Beaufort Housing Authority	Post Office Box 1104, 1009 Prince Street, Beaufort, SC 29901	25,220
The Housing Authority City of Charleston	550 Meeting Street, Charleston, SC 29403	93,232
Charleston County Housing and Redevelopment Authority	2106 Mount Pleasant Street, Charleston, SC 29403	60,000
North Charleston Housing Authority	2170 Ashley Phosphate Road, Suite 700, North Charleston, SC 29406.	45,450
The Housing Authority of the City of Greenville, SC	511 Augusta Street, Greenville, SC 29605	32,379
Myrtle Beach Housing Authority	P.O. Box 2468, 605 10th Avenue North, Myrtle Beach, SC 29578	80,147
The Housing Authority of the City of Spartanburg	201 Caulder Street, Spartanburg, SC 29304	92,096
Brookings County Housing and Redevelopment Commission	1310 Main Avenue South, Brookings, SD 57006-0432	36,713
Sioux Falls Housing and Redevelopment Commission	630 South Minnesota Avenue, Sioux Falls, SD 57104-4825	71,695
Mobridge Housing and Redevelopment Commission	P.O. Box 370, 116 4th Street West, Mobridge, SD 57601-0370	33,226
Oak Ridge Housing Authority	10 Van Hicks Lane, Oak Ridge, TN 37830	35,571
Town of Crossville Housing Authority	P.O. Box 425, Crossville, TN 38555-0425	49,092
TN Housing Development Agency	404 James Robertson Parkway, Suite 1114, Nashville, TN 37243	197,446

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip Code	Amount
Metropolitan Development and Housing Agency	701 South Sixth Street, Nashville, TN 37206	179,997
East Tennessee Human Resource Agency	9111 Cross Park Drive, Suite D-100, Knoxville, TN 37923	33,728
Knoxville's Community Development Corporation	P.O. Box 3550, 901 North Broadway, Knoxville, TN 37927-6663	89,130
Jackson Housing Authority	125 Preston Street, Jackson, TN 38301	89,426
Memphis Housing Authority	700 Adams Avenue, Memphis, TN 38105	83,835
Kingsport Housing & Redevelopment Authority	P.O. Box 44, Kingsport, TN 37662	80,860
San Antonio Housing Authority	818 South Flores, San Antonio, TX 78204	96,884
Housing Authority of the City of Port Isabel	P.O. Box 1196, Port Isabel, TX 78578	25,502
Cameron County Housing Authority	65 Castellano Circle, Brownsville, TX 78526	42,685
City of Garland Housing Agency	210 Carver, Suite 201B, Garland, TX 75098	49,856
The Housing Authority of Dallas, Texas (DHA)	3939 North Hampton, Dallas, TX 75212	364,997
Housing Authority of the City of El Paso	5300 Paisano, El Paso, TX 79905	77,519
Galveston Housing Authority	4700 Broadway, Suite A-100, Galveston, TX 77551	105,781
Texoma Council of Governments	1117 Gallagher Drive, Sherman, TX 75090	60,226
Houston Housing Authority	2640 Fountain View Drive, Houston, TX 77057	78,850
San Marcos Housing Authority	1201 Thorpe Lane, San Marcos, TX 78666	49,753
Housing Authority of the City of Pharr	104 West Polk, Pharr, TX 78577	59,010
Housing Authority of the County of Hidalgo	1800 North Texas Boulevard, Weslaco, TX 78596	36,724
Mission Housing Authority	1300 East 8th, Mission, TX 78572	61,409
Deep East Texas Council of Governments	210 Premier Drive, Jasper, TX 75951	70,300
Housing Authority of the City of Beaumont	1890 Laurel, Beaumont, TX 77701	79,745
Housing Authority of the City of Kingsville	1000 West Corral Avenue, Kingsville, TX 78363	53,212
Housing Authority of the City of Waco	P.O. Box 978, 4400 Cobbs Drive, Waco, TX 76703-0978	71,748
Midland County Housing Authority	1710 Edwards Street, Midland, TX 79701	41,217
City of Amarillo	P.O. Box 1971, 509 East 7th, Amarillo, TX 79105-1971	34,951
Housing Authority of the City of Fort Worth	1201 East 13th Street, Fort Worth, TX 76102	43,511
Housing Authority of the City of San Angelo	420 East 28th, San Angelo, TX 76903-2455	48,380
Housing Authority of the City of Austin	P.O. Box 6159, Austin, TX 78762-6159	127,430
Walker County Housing Authority	340 Highway 75 North, Suite E, Huntsville, TX 77320	45,000
Laredo Housing Authority	2000 San Francisco Avenue, Laredo, TX 78040	44,608
Montgomery County Housing Authority	1022 McCall Street, Conroe, TX 77301	37,669
Housing Authority of the City of Arlington, Texas	501 West Sanford Street, Suite 20, Arlington, TX 76011	105,278
Davis Community Housing Authority	P.O. Box 328, 352 South 200 West, Suite 1, Farmington, UT 84025	37,827
Cedar City Housing Authority	364 South 100 East, Cedar City, UT 84720	51,310
Housing Authority of the County of Salt Lake	3595 South Main, Salt Lake City, UT 84115	89,244
Housing Authority of Utah County	240 East Center Street, Provo, UT 84606-3162	43,184
Provo Housing Authority	650 West 100 North, Provo, UT 84601	79,228
Housing Authority of the City of Ogden	2661 Washington Boulevard, Suite 102, Ogden, UT 84401	52,103
Housing Authority of Salt Lake City	1776 South West Temple, Salt Lake City, UT 84115	99,272
Waynesboro Redevelopment and Housing Authority	P.O. Box 1138, 1700 New Hope Road, Waynesboro, VA 22980	37,884
Charlottesville Redevelopment and Housing Authority (CRHA)	P.O. Box 1405, 605 East Main Street, Room A040, Charlottesville, VA 22902	45,850
Fairfax County Redevelopment and Housing Authority	3700 Pender Drive, Suite 300, Fairfax, VA 22030	65,500
County of Loudoun	102 Heritage Way NE, Suite 103, Leesburg, VA 20176	64,266
Roanoke Redevelopment and Housing Authority	2624 Salem Turnpike, Northwest, Roanoke, VA 24017-0359	49,949
Harrisonburg Redevelopment and Housing Authority	286 Kelley Street, Harrisonburg, VA 22802	23,313
Suffolk Redevelopment & Housing Authority	530 East Pinner Street, Suffolk, VA 23434	51,224
James City County	5320 Palmer Lane, Suite 1A, Williamsburg, VA 23188-2674	47,034
Newport News Redevelopment and Housing Authority	227 27th Street, P.O. Box 797, Newport News, VA 23607	130,457
Virginia Housing Development Authority	601 South Belvidere Street, Richmond, VA 23220	192,210
City of Virginia Beach	2424 Courthouse Road Municipal Center, Building 18A, Virginia Beach, VA 23456	47,480
Hampton Redevelopment and Housing Authority	P.O. Box 280, 22 Lincoln Street, Hampton, VA 23669	45,350
Chesapeake Redevelopment and Housing Authority	1468 South Military Highway, Chesapeake, VA 23320	48,998
Richmond Redevelopment and Housing Authority	P.O. Box 26887, 918 Chamberlayne Parkway, Richmond, VA 23261-6887	128,144
Danville Redevelopment and Housing Authority	135 Jones Crossing, Danville, VA 24541	35,029
Burlington Housing Authority	65 Main Street, Burlington, VT 05401	98,695
Vermont State Housing Authority	One Prospect Street, Montpelier, VT 05602-3556	220,000
Housing Authority of the City of Richland Washington	1215 Thayer Drive, Richland, WA 99354	42,709
Housing Authority of Chelan County and the City of Wenatchee	1555 South Methow, Wenatchee, WA 98801	31,532
Housing Authority of the County of Clallam	2603 South Francis Street, Port Angeles, WA 98362	91,400
City of Longview Housing Authority	1207 Commerce Avenue, Longview, WA 98632	78,282
Housing Authority of Island County	7 Northwest 6th Street, Coupeville, WA 98239-3400	46,847
Housing Authority of Jefferson County	5210 Kuhn Street, Port Townsend, WA 98368	37,461
Seattle Housing Authority	P.O. Box 19028, 120 Sixth Avenue North, Seattle, WA 98109-1028	295,119
King County Housing Authority	600 Andover Park West, Tukwila, WA 98188	128,532
Kitsap County Consolidated Housing Authority	9307 Bayshore Drive, Northwest, Silverdale, WA 98383	98,424
Housing Authority of the City of Bremerton	110 Russell Road, Bremerton, WA 98312	42,409

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/City/State/Zip Code	Amount
Pierce County Housing Authority—FSS/Homeownership	P.O. Box 45410, 603 South Polk Street, Tacoma, WA 98448–0410.	128,532
Housing Authority of the City of Tacoma	902 South L Street, Tacoma, WA 98405	64,266
Housing Authority of Snohomish County	12625 4th Avenue West, Suite 200, Everett, WA 98204	19,127
Housing Authority of the City of Everett	P.O. Box 1547, 3107 Colby Avenue, Everett, WA 98201	137,160
Housing Authority of Thurston County	503 West 4th Avenue, Olympia, WA 98501	128,532
Housing Authority City of Kelso	1415 South 10th, Kelso, WA 98626	22,844
Brown County Housing Authority	100 North Jefferson Street, Green Bay, WI 54301	128,214
Superior Housing Authority	1219 North Eighth Street, Superior, WI 54880	50,615
Dunn County Housing Authority	1421 Stout Road, Menomonie, WI 54751	36,295
City of Kenosha Housing Authority	625 52nd Street, Room 98, Kenosha, WI 53140	65,000
Oconto County Housing Authority	120 Main Street, Oconto, WI 54153	54,075
Appleton Housing Authority	925 West Northland Avenue, Appleton, WI 54914–1422	38,350
Housing Authority of Racine County	837 Main Street, Racine, WI 53403	64,244
Beloit Community Development Authority	220 Portland Avenue, Beloit, WI 53511	64,266
Community Development Authority	601 South Cedar, Marshfield, WI 54449–4267	20,000
The Huntington West Virginia Housing Authority	300 Seventh Avenue, West, Huntington, WV 25701	36,233
Greenbriar Housing Authority	Route 2, Box 142, Lewisburg, WV 24901	59,192
Clarksburg Housing Authority	433 Baltimore Avenue, Clarksburg, WV 26301	33,027
Harrison County Housing Authority	433 Baltimore Avenue, Clarksburg, WV 26301	33,012
Charleston-Kanawha Housing Authority	911 Michael Avenue, Charleston, WV 25312	34,381
The Housing Authority of the City of Fairmont	P.O. Box 2738, 103 12th Street, Fairmont, WV 26555–2738	54,089
Benwood Housing Authority	2200 Marshall Street, Benwood, WV 26031	36,208
Housing Authority of Mingo County	P.O. Box 120, 5026 Helena Avenue, Delbarton, WV 25670	31,820
Parkersburg Housing Authority	1901 Cameron Avenue, Parkersburg, WV 26101	40,951

[FR Doc. E8–3638 Filed 2–25–08; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5100–FA–16]

Announcement of Funding Awards for the Public Housing Family Self-Sufficiency Program for Fiscal Year 2007

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Announcement of Funding Awards.

SUMMARY: *Purpose of the Program.* In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department for funding under the FY 2007 Notice of Funding Availability (NOFA) for the Public Housing (PH) Family Self-Sufficiency Program funding for Fiscal Year 2007. This announcement contains the consolidated names and addresses of those award recipients selected for

funding based on the rating and ranking of all applications and the allocation of funding available for each State.

FOR FURTHER INFORMATION CONTACT: For questions concerning the FY 2007 Public Housing Family Self-Sufficiency awards, contact the Office of Public and Indian Housing’s Grant Management Center, Director, Iredia Hutchinson, Department of Housing and Urban Development, Washington, DC, telephone (202) 358–0273. For the hearing or speech impaired, these numbers may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1 (800) 877–8339. (Other than the “800” TTY number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The authority for the \$12,000,000 in one-year budget authority for ROSS PIH FSS program coordinators is found in the Departments of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, FY2007 (Pub. L. 109). The allocation of housing assistance budget authority is pursuant to the provisions of 24 CFR part 791, subpart D, implementing section 213(d) of the

Housing and Community Development Act of 1974, as amended.

This program is intended to promote the development of local strategies to coordinate the use of assistance with public and private resources to enable participating families to achieve economic independence and self-sufficiency. A Public and Indian Housing FSS Program Coordinator assures that program participants are linked to the supportive services they need to achieve self-sufficiency.

The Fiscal Year 2006 awards announced in this Notice were selected for funding in a competition announced in **Federal Register** NOFA published on March 13, 2007. In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 203 awards made under the Public Housing Family Self-Sufficiency competition.

Dated: February 7, 2008.

Paula O. Blunt,
General Deputy Assistant Secretary for Office of Public and Indian Housing.

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE PH FAMILY SELF SUFFICIENCY PROGRAM

Organization	Address/city/state/zip code	Amount
Alexander City Housing Authority	2110 County Road, Alexander City, AL 35010	\$36,548
Jefferson County Housing Authority	3700 Industrial Parkway, Birmingham, AL 35217	52,471
Mobile Housing Board	151 South Claiborne Street, Mobile, AL 36602	52,652

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE PH FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/city/state/zip code	Amount
Prichard Housing Authority	4559 St. Stephens Road, Eight Mile, AL 36613	46,090
The Housing Authority of the City of Huntsville	200 Washington Street, Huntsville, AL 35804-0486	65,500
Tuscaloosa Housing Authority	P.O. Box 2281, Tuscaloosa, AL 35403-2281	38,686
Housing Authority of Lonoke County	P.O. Box 74, 617 North Greenlaw Street, Carlisle, AR 720204	33,990
Housing Authority of the City of North Little Rock	2201 Division, North Little Rock, AR 72114	37,182
Housing Authority of the City of West Memphis	2820 Harrison Street, West Memphis, AR 72301-6099	40,685
City of Phoenix Housing Department	251 West Washington, 4th Floor, Phoenix, AZ 85003	65,500
City of Tucson	P.O. Box 27210, 310 North Commerce Park Loop, Tucson, AZ 85726-7210	26,787
Housing Authority of Maricopa County	2024 North 7th Street, Phoenix, AZ 85006	46,103
Housing Authority of the City of Yuma	420 South Madison Avenue, Yuma, AZ 85364	57,158
Housing Authority City of Fresno	P.O. Box 11985, 1331 Fulton Mall, Fresno, CA 93776-1985	65,500
Housing Authority County of Fresno	P.O. Box 11985, 1331 Fulton Mall, Fresno, CA 93776-1985	65,500
Housing Authority of the City of Madera	205 North G Street, Madera, CA 93637	49,756
Housing Authority of the City of Oakland	1619 Harrison Street, Oakland, CA 94612-3307	64,890
Housing Authority of the City of Oxnard	435 South D Street, Oxnard, CA 93030	65,000
Housing Authority of the City of San Buenaventura	995 Riverside Street, Ventura, CA 93001-1636	65,500
Housing Authority of the City of San Luis Obispo	487 Leff Street, San Luis Obispo, CA 93401	49,986
Housing Authority of the City of Santa Barbara	808 Laguna Street, Santa Barbara, CA 93101	65,000
Housing Authority of the County of Kern	601 24th Street, Bakersfield, CA 93301	60,909
Housing Authority of the County of Marin	4020 Civic Center Drive, San Rafael, CA 94903	65,000
Housing Authority of the County of San Bernardino	715 East Brier Drive, San Bernardino, CA 92408-2841	65,500
Housing Authority of the County of San Joaquin	448 South Center Street, Stockton, CA 95203	165,333
Housing Authority of the County of Santa Cruz	2931 Mission Street, Santa Cruz, CA 95060	65,500
Housing Authority of the County of Stanislaus	1701 Robertson Road, Modesto, CA 95351	65,000
San Diego Housing Commission	1122 Broadway, Suite 300, San Diego, CA 92101	131,000
Adams County Housing Authority	7190 Colorado Boulevard, Commerce City, CO 80022	65,000
Boulder Housing Partners aka Housing Authority Boulder CO	4800 Broadway, Boulder, CO 80304	63,551
Fort Collins Housing Authority	1715 West Mountain, Fort Collins, CO 80521	65,500
Housing Authority of the City & County of Denver	777 Grant Street, Denver, CO 80203	222,600
The Housing Authority of the City of Loveland	375 West 37th Street, Suite 200, Loveland, CO 80538	65,500
Housing Authority City of Stamford	22 Clinton Avenue, Stamford, CT 6904	65,000
Housing Authority of the City of Meriden	22 Church Street, Meriden, CT 6451	53,572
Housing Authority of the City of New Haven	P.O. Box 1912, 360 Orange Street, New Haven, CT 06509-1912	57,181
Housing Authority of the City of Norwalk	P.O. Box 508, 24½ Monroe Street, Norwalk, CT 06856-0508	65,500
Housing Authority of the Town of Greenwich	249 Milbank Avenue, Greenwich, CT 6830	65,500
Hialeah Housing Authority	75 East 6th Street, Hialeah, FL 33010	37,981
Housing Authority of Brevard County	615 Kurek Court, Merritt Island, FL 32953	53,129
Housing Authority of Lakeland	430 Hartsell Avenue, Lakeand, FL 33815	47,664
Housing Authority of the City of Fort Myers	4224 Michigan Avenue, Fort Myers, FL 33916	54,993
Housing Authority of the City of Tampa	1514 Union Street, Tampa, FL 33607	61,859
Jacksonville Housing Authority	1300 Broad Street, Jacksonville, FL 32202	43,657
The Housing Authority of the City of Bradenton	1309 6th Street West, Bradenton, FL 34205	45,450
The Housing Authority of the City of Daytona Beach	211 North Ridgewood Avenue, Daytona Beach, FL 32114	41,200
West Palm Beach Housing Authority	1715 Division Avenue, West Palm Beach, FL 33407	36,794
Carrollton Housing Authority	1 Roop Street, Carrollton, GA 30117	55,892
Housing Authority of the City of Albany, GA	P.O. Box 485, 521 Pine Avenue, Albany, GA 31702	28,219
Macon Housing Authority	2015 Felton Avenue, Macon, GA 31201	59,730
Northwest Georgia Housing Authority	800 North Fifth Avenue, Rome, GA 30162	43,329
State of Hawaii	P.O. Box 17907, Honolulu, HI 96817	65,500
City of Des Moines, Municipal Housing Agency	100 East Euclid, Suite 101, Des Moines, IA 50313-4534	29,978
Eastern Iowa Regional Housing Authority	3999 Pennsylvania Avenue, Suite 200, Dubuque, IA 52002	61,083
Nampa Housing Authority	211 19th Avenue, North Nampa, ID 83687	40,177
Chicago Housing Authority	60 East Van Buren Street, Chicago, IL 60605	53,044
Housing Authority of Champaign County	205 West Park Avenue, Champaign, IL 61820	34,491
Housing Authority of Henry County	100 Fairview Junction, Kewanee, IL 61443	44,767
Housing Authority of the City of Rock Island	227 21st Street, Rock Island, IL 61201	65,500
Peoria Housing Authority	100 South Richard Pryor Place, Peoria, IL 61605	48,073
Rockford Housing Authority	223 South Winnebago Street, Rockford, IL 61102	63,112
Springfield Housing Authority	200 North Eleventh Street, Springfield, IL 62703	36,000
Housing Authority of Michigan City	621 East Michigan Boulevard, Michigan, IN 46360	39,000
Housing Authority of the City of Fort Wayne, Indiana	P.O. Box 13489, 7315 Hanna Street, Fort Wayne, IN 46869-3489	42,600
Housing Authority of the City of Terre Haute	P.O. Box 3086, One Dreiser Square, Terre Haute, IN 47803-0086	59,905
Housing Authority of the County of Delaware, Indiana	2401 South Haddix Avenue, Muncie, IN 47302-7547	49,764
Housing Authority, City of Elkhart	1396 Benham Avenue, Elkhart, IN 46516	37,504
Indianapolis Housing Agency	1919 North Meridian Street, Indianapolis, IN 46202	60,255
New Albany Housing Authority	P.O. Box 11, New Albany, IN 47150	114,000
Lawrence-Douglas County Housing Authority	1600 Haskell Avenue, Lawrence, KS 66044	59,859
Salina Housing Authority	469 South 5th Street, Salina, KS 67401	55,000
Housing Authority of Bowling Green	247 Double Springs Road, Bowling Green, KY 42101	45,000

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE PH FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/city/state/zip code	Amount
Housing Authority of Glasgow	P.O. Box 1745, 111 Bunche Avenue, Glasgow, KY 42142-1745	38,299
Louisville Metro Housing Authority	420 South Eighth Street, Louisville, KY 40203	64,747
Housing Authority of New Orleans	4100 Touro Street, New Orleans, LA 70122	65,000
Jefferson Parish Housing Authority	1718 Betty Street, Marrero, LA 70072	43,260
Shreveport Housing Authority	2500 Line Avenue, Shreveport, LA 71104	34,495
Framingham Housing Authority	1 John J. Brady Drive, Framingham, MA 01702	65,000
Holyoke Housing Authority	475 Maple Street, Suite One, Holyoke, MA 01040	45,003
Lynn Housing Authority & Neighborhood Development	10 Church Street, Lynn, MA 01902	48,570
Somerville Housing Authority	30 Memorial Road, Somerville, MA 02145	65,500
Springfield Housing Authority	25 Saab Court, Springfield, MA 01104	60,000
Worcester Housing Authority	40 Belmont Street, Worcester, MA 01506	65,500
Housing Authority of Baltimore City	417 East Fayette Street, Baltimore, MD 21202	65,500
Housing Authority of St. Mary's County, Maryland	P.O. Box 653, 41650 Tudor Hall Road, Leonardtown, MD 20650	52,451
Housing Authority of the City of Frederick	209 Madison Street, Frederick, MD 21701	50,000
Housing Authority of the City of Hagerstown	35 West Baltimore Street, Hagerstown, MD 21740	95,961
Housing Authority of Washington County	P.O. Box 2944, 44 North Potomac Street, Hagerstown, MD 21740-2944.	4,311
Housing Opportunities Commission	10400 Detrick Avenue, Kensington, MD 20895	129,167
Housing Authority of the City of Brewer	15 Colonial Circle, Suite 1, Brewer, ME 04412	48,349
Lewiston Housing Authority	1 College Street, Lewiston, ME 04240	16,334
Portland Housing Authority	14 Baxter Boulevard, Portland, ME 04101	17,531
Grand Rapids Housing Commission	1420 Fuller Avenue, Southeast Grand Rapids, MI 49507	65,500
Muskegon Housing Commission	1080 Terrace, Muskegon, MI 49442	42,884
Saginaw Housing Commission	P.O. Box 3225, 1803 Norman Street, Saginaw, MI 48605-3225	47,258
Housing & Redevelopment Authority of Virginia, MN	P.O. Box 1148, Pine Mill Court, Virginia, MN 55792-3097	52,900
Housing Authority of St. Louis Park	5005 Minnetonka Boulevard, St. Louis Park, MN 55416-2216	20,000
Washington County Housing and Redevelopment Authority	321 Broadway Avenue, St. Paul Park, MN 55071	26,766
Housing Authority of Kansas City, Missouri	301 East Armour, Kansas, MO 64111	48,272
Housing Authority of the City of Columbia, MO	201 Switzler Street, Columbia, MO 65203	47,950
Housing Authority of the City of St. Charles	1041 Olive Street, St. Charles, MO 63301	39,631
St. Louis Housing Authority	4100 Lindell Boulevard, St. Louis, MO 63108	65,500
Natchez Housing Authority	2 Auburn Avenue, Natchez, MS 39120	59,877
The Housing Authority of the City of Meridian	2425 E Street, Meridian, MS 39301	48,818
City of Concord Housing Department	P.O. Box 308, 283 Harold Goodman Circle, Concord, NC 28026-0308.	44,447
City of Hickory Public Housing Authority	P.O. Box 2927, Hickory, NC 28603	45,824
Gastonia Housing Authority	P.O. Box 2398, 340 West Long Avenue, Gastonia, NC 28053-2398.	48,601
Housing Authority of the City of Charlotte	1301 South Boulevard, Charlotte, NC 28203	65,000
Housing Authority of the City of Greensboro	450 North Church Street, Greensboro, NC 27401	58,903
Housing Authority of the City of Greenville, NC	1103 Broad Street, Greenville, NC 27834	55,249
Housing Authority of the City of High Point	500 East Russell Avenue, High Point, NC 27261	95,838
Housing Authority of the City of Kinston, North Carolina	608 North Queen Street, Kinston, NC 28501	42,972
Housing Authority of the City of Winston-Salem	500 West Fourth Street, Suite 300, Winston-Salem, NC 27101	53,030
Lexington Housing Authority	1 Jamaica Drive, Lexington, NC 27292	53,127
Statesville Housing Authority	110 West Allison Street, Statesville, NC 28677	94,872
The Housing Authority of the City of Durham	P.O. Box 1726, 330 East Main Street, Durham, NC 27701	65,000
Housing Authority of the City of Lincoln, Nebraska	5700 R Street, Lincoln, NE 68505	47,455
Housing Authority of the City of Omaha	540 South 27th Street, Omaha, NE 68106-1549	40,941
Kearney Housing Agency	2715 Avenue I OFC, Kearney, NE 68847	46,755
Keene Housing Authority	831 Court Street, Keene, NH 03431	46,901
Atlantic City Housing Authority	P.O. Box 1258, 227 North Vermont Avenue, 17th Floor, Atlantic City, NJ 08401.	53,138
Housing Authority of the City of Camden	2021 Watson Street, 2nd Floor, Camden, NJ 08105	45,763
Millville Housing Authority	P.O. Box 803, 309 Buck Street, Millville, NJ 08332	44,000
City of Albuquerque Housing Services	1840 University Boulevard, Southeast, Albuquerque, NM 87106	65,500
Clovis Housing & Redevelopment Agency, Inc	P.O. 1240, 2101 West Grand Avenue, Clovis, NM 88101	41,200
Santa Fe Civic Housing Authority	664 Alta Vista Street, Santa Fe, NM 87505	52,699
Santa Fe County Housing Authority	52 Camino de Jacobo, Santa Fe, NM 87507-3546	51,785
Taos County Housing Authority	525 Ranchitos Road, Unit 925, Taos, NM 87571	47,380
Truth or Consequences Housing Authority	108 Cedar, Truth or Consequences, NM 87901	9,858
Housing Authority of the City of Las Vegas	340 North 11 Street, Las Vegas, NV 89101	125,886
Housing Authority of the City of Reno	1525 East 9th Street, Reno, NV 89512-3012	26,594
Housing Authority of the County of Clark, Nevada	5390 East Flamingo Road, Las Vegas, NV 89122	50,470
Buffalo Municipal Housing Authority	300 Perry Street, Buffalo, NY 14204	64,939
Cohoes Housing Authority	100 Manor Sites, Cohoes, NY 12047	14,277
Geneva Housing Authority	P.O. Box 153, 41 Lewis Street, Geneva, NY 14456	61,263
Monticello Housing Authority	76 Evergreen Drive, Monticello, NY 12701	35,500
Municipal Housing Authority of the City of Schenectady	375 Broadway, Schenectady, NY 12305	52,346
New Rochelle Municipal Housing Authority	50 Sickles Avenue, New Rochelle, NY 10801-3416	65,500
Troy Housing Authority	One Eddy's Lane, Troy, NY 12180	56,735
Akron Metropolitan Housing Authority	100 West Cedar Street, Akron, OH 44307	120,398

APPENDIX A.—FISCAL YEAR 2007 FUNDING AWARDS FOR THE PH FAMILY SELF SUFFICIENCY PROGRAM—Continued

Organization	Address/city/state/zip code	Amount
Chillicothe Metropolitan Housing Authority	178 West Fourth Street, Chillicothe, OH 45601	22,692
Lorain Metropolitan Housing Authority	1600 Kansas Avenue, Lorain, OH 44052	43,260
Lucas Metropolitan Housing Authority	435 Nebraska Avenue, Toledo, OH 43604	50,434
Morgan Metropolitan Housing Authority	4580 North Street, Route 376 Northwest, McConnelsville, OH 43756.	45,618
Springfield Metropolitan Housing Authority	101 West High Street, Springfield, OH 45502	43,332
Trumbull Metropolitan Housing Authority	4076 Youngstown Road, Southeast, Suite 101, Warren, OH 44484.	45,830
Youngstown Metropolitan Housing Authority	131 West Boardman Street, Youngstown, OH 44503	57,749
Housing Authority of the City of Lawton	609 Southwest F Avenue, Lawton, OK 73501	32,467
Housing Authority of the City of Muskogee	220 North 40th Street, Muskogee, OK 74401	40,000
Housing Authority of the City of Shawnee, OK	P.O. Box 3427, 601 West 7th Street, Shawnee, OK 74802-3427	94,666
Housing Authority of the City of Tulsa	P.O. Box 6369, 415 East Independence, Tulsa, OK 74106-5727	42,749
Housing Authority & Community Services Agency of Lane County.	177 Day Island Road, Eugene, OR 97401	65,500
Housing Authority and Urban Renewal Agency of Polk County	P.O. Box 467, 204 Southwest Walnut Avenue, Dallas, OR 97338	14,534
Housing Authority of Portland	135 Southwest Ash, Portland, OR 97204	196,080
Housing Authority of the City of Salem	360 Church Street, Southeast, Salem, OR 97301	65,500
Umatilla Reservation Housing Authority	51 Umatilla Loop, Pendleton, OR 97801	65,000
Allegheny County Housing Authority	625 Stanwix Street, 12 Floor, Pittsburgh, PA 15222	64,500
Altoona Housing Authority	2700 Pleasant Valley Boulevard, Altoona, PA 16602	55,023
Housing Authority of Northumberland County	50 Mahoning Street, Milton, PA 17847	50,635
Housing Authority of the City of Pittsburgh	200 Ross Street, Pittsburgh, PA 15219	44,550
Housing Authority of the City of York	P.O. Box 1963, 31 South Broad Street, York, PA 17403	42,679
Philadelphia Housing Authority	12 South 23rd Street, Philadelphia, PA 19103	65,500
Westmoreland County Housing Authority	154 South Greengate Road, Greensburg, PA 15601-6392	39,908
Housing Authority of the City of Providence	100 Broad Street, Providence, RI 02903	65,500
Housing Authority of the City of Columbia, South Carolina	1917 Harden Street, Columbia, SC 29204	46,921
Housing Authority of the City of Spartanburg	201 Caulder Street, Spartanburg, SC 29304	48,667
North Charleston Housing Authority	2170 Ashley Phosphate Road, North Charleston, SC 29406	49,440
The Housing Authority of the City of Greenville, SC	511 Augusta Street, Greenville, SC 29605	40,469
Jackson Housing Authority	125 Preston Street, Jackson, TN 38301	88,794
Kingsport Housing & Redevelopment Authority	P.O. Box 44, Kingsport, TN 37662	56,512
Memphis Housing Authority	700 Adams Avenue, Memphis, TN 38105	65,000
Metropolitan Development and Housing Agency	701 South Sixth Street, Nashville, TN 37206	126,004
Oak Ridge Housing Authority	10 Van Hicks Lane, Oak Ridge, TN 37830	42,506
Town of Crossville Housing Authority	67 Irwin Avenue, Crossville, TN 38555	53,045
Beaumont Housing Authority	1890 Laurel, Beaumont, TX 77701	28,598
Cameron County Housing Authority	65 Castellano Circle, Brownsville, TX 78526	49,093
Housing Authority of the City of Austin	P.O. Box 6159, Austin, TX 78762-6159	100,102
Housing Authority of the City of Fort Worth	1201 East 13th Street, Fort Worth, TX 76102	65,500
Housing Authority of The City of Mission	1300 East 8th, Mission, TX 78596	35,000
Housing Authority of the City of San Antonio (SAHA)	818 South Flores, San Antonio, TX 78204	272,286
Housing Authority of the City of Waco	P.O. Box 978, 4400 Cobbs Drive, Waco TX 76703-0978	49,729
Housing Authority of the County of Hidalgo	1800 North Texas Boulevard, Weslaco, TX 78596	38,192
Houston Housing Authority	2640 Fountainview Drive, Houston, TX 77257-2971	50,989
San Marcos Housing Authority	1201 Thorpe Lane, San Marcos, TX 78666	38,501
The Housing Authority of the City of Dallas, Texas (DHA)	3939 North Hampton Road, Dallas, TX 75212	53,200
Housing Authority of Salt Lake City	1776 South West Temple, Salt Lake City, UT 84115	54,590
Housing Authority of the County of Salt Lake	3595 South Main, Salt Lake City, UT 84115	54,590
Bristol Redevelopment and Housing Authority	809 Edmond Street, Bristol, VA 24201	38,292
Chesapeake Redevelopment & Housing Authority	1468 South Military Highway, Chesapeake, VA 23320	47,448
Danville Redevelopment & Housing Authority	135 Jones Crossing, Danville, VA 24541	44,557
Fairfax Co. Redev. and Housing Authority	3700 Pender Drive, Suite 300, Fairfax, VA 22030	65,500
Norfolk Redevelopment and Housing Authority	201 Granby Street, Norfolk, VA 23510	131,000
Portsmouth Redevelopment & Housing Authority	801 Water Street, 2nd Floor, Portsmouth, VA 23704	50,645
Richmond Redevelopment and Housing Authority	901 Chamberlayne Parkway, Richmond, VA 23261-6887	65,500
Roanoke Redevelopment and Housing Authority	2624 Salem Turnpike, Northwest, Roanoke, VA 24017	104,782
Waynesboro Redevelopment and Housing Authority	P.O. Box 1138, 1700 New Hope Road, Waynesboro, VA 22980	40,586
Housing Authority of the City of Bremerton	110 Russell Road, Bremerton, WA 98312	44,549
Housing Authority of the City of Tacoma	902 South L Street, Tacoma, WA 98405	54,600
Seattle Housing Authority	P.O. Box 19028, 120 Sixth Avenue North, Seattle WA 98109-1028.	57,230
Housing Authority of the City of Milwaukee	P.O. Box 324, Milwaukee, WI 53201-0324	65,500
Charleston-Kanawha Housing Authority	911 Michael Avenue, Charleston, WV 25312	43,255
Parkersburg Housing Authority	1901 Cameron Avenue, Parkersburg, WV 26101	36,726
Wheeling Housing Authority	P.O. Box 2089, 11 Community Street, Wheeling, WV 26003	44,000

[FR Doc. E8-3634 Filed 2-25-08; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R5-R-2008-N0012, 50130-1265-0000-S3]

Erie National Wildlife Refuge, Crawford County, PA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare a comprehensive conservation plan (CCP) and an associated National Environmental Policy Act (NEPA) document for Erie National Wildlife Refuge (NWR). We provide this notice in compliance with our planning policy to advise other agencies, Tribes, and the public of our intentions, and to obtain suggestions and information on the scope of issues to consider. We are also requesting public comments.

DATES: To ensure consideration, we must receive your written comments by April 30, 2008. We will hold public meetings to begin the CCP planning process; see *Public Meetings* under **SUPPLEMENTARY INFORMATION**. We will announce opportunities for public input in local news media throughout the CCP planning process, and will announce upcoming public meetings in local news media and the refuge Web site.

ADDRESSES: Send your comments or requests for more information by any of the following methods.

Electronic mail:
northeastplanning@fws.gov. Include "Erie NWR CCP/EA" in the subject line of the message.

U.S. Postal Service: Erie NWR, 11296 Wood Duck Lane, Guys Mills, PA 16327.

In-Person Drop-off, Viewing, or Pickup: Call 814-789-3585 to make an appointment during regular business hours at 11296 Wood Duck Lane, Guys Mills, PA.

Fax: 814-789-2909.

FOR FURTHER INFORMATION CONTACT: Thomas Roster, Project Leader, at 585-948-5445, or Thomas Bonetti, Planning Team Leader, at 413-253-8307.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we initiate our process for developing a CCP for Erie

NWR in Crawford County, Pennsylvania. We provide this notice in compliance with our planning policy to (1) advise other Federal and State agencies and the public of our intention to conduct detailed planning on this refuge, and (2) obtain suggestions and information on the scope of topics to consider in the environmental document and during development of the CCP.

Background

The CCP Process

The National Wildlife Refuge System Improvement Act of 1997 (Improvement Act) (16 U.S.C. 668dd-668ee), which amended the National Wildlife Refuge System Administration Act of 1966, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System (NWRS), consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Improvement Act and NEPA.

We establish each unit of the NWRS for specific purposes. We use these purposes as the bases to develop and prioritize management goals and objectives for the refuge within the NWRS mission, and to determine how the public can use the refuge. The planning process is a way for us and the public to evaluate management goals and objectives for the best possible conservation approach to this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with the refuge's establishing purposes and the mission of the NWRS.

Our CCP process provides opportunities for Tribal, State, and local governments; agencies; organizations; and the public to participate. At this time, we encourage the public to provide input in the form of issues, concerns, ideas, and suggestions for the future management of Erie NWR.

We will conduct the environmental review of this Environmental

Assessment in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*); NEPA regulations (40 CFR parts 1500-1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

Erie National Wildlife Refuge

Erie NWR was established in 1959 under the Migratory Bird Conservation Act for "use as an inviolate sanctuary, or for any other management purpose, for migratory birds (16 U.S.C. 715d)." The 8,800-acre Erie NWR lies 35 miles south of Lake Erie in northwestern Pennsylvania in the glaciated Appalachian Plateau. The refuge is entirely within the French Creek watershed, which is considered an ecologically significant watershed nationally, as well as in Pennsylvania, with globally rare freshwater mussels and fish. Erie NWR is the only national wildlife refuge that hosts the Federal and State endangered clubshell and northern riffleshell freshwater mussels. Twenty-two mussels species, dozens of native fishes, and several rare plants and natural communities are found in the Muddy-Dead Creek drainage in the Seneca Division of the refuge. The Sugar Lake Division, 10 miles south, is more actively managed with a series of freshwater impoundments and natural stream drainages, wetland complexes, and uplands of mature forest, shrublands, and grasslands.

Scoping: Preliminary Issues, Concerns, and Opportunities

We have identified preliminary issues, concerns, and opportunities that we may address in the CCP. We have briefly summarized these issues below. During public scoping, we may identify additional issues.

Erie NWR incorporates several management techniques to create desired habitat types and wildlife rich environments. Some of the management techniques to be addressed in the CCP will include prescribed fire, mowing, water level management, invasive species control through herbicide application, removal/management of select artificial nest structures, mechanical manipulation of habitats, and cropland management.

Additionally, public use throughout the refuge will be reevaluated in relation to wildlife dependent recreation and other mission compatible uses. These uses will include waterfowl, big game, small game, and turkey hunting; fishing and fishing access points; trapping area(s) and the permitting process; seasonal access throughout the refuge; deletion, addition, or modification of

the trails, parking areas; and other visitor facilities.

Public Meetings

We will involve the public through open houses, informational and technical meetings, and written comments. We will release mailings, news releases, and announcements to provide information about opportunities for public involvement in the planning process. You can obtain the schedule from the planning team leader or project leader (see **ADDRESSES**). You may also submit comments anytime during the planning process by mail, electronic mail, or fax (see **ADDRESSES**). There will be additional opportunities to provide public input once we have prepared a draft CCP.

We anticipate that public meetings will be held in at least two locations: Guys Mills, Pennsylvania; and Meadville, Pennsylvania. For specific information including dates, times, and locations, contact the project leader (see **ADDRESSES**) or visit our Web site at <http://www.fws.gov/northeast/erie>.

Public Availability of Comments

Our practice is to make comments, including names, home addresses, home phone numbers, and electronic mail 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 organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Dated: February 19, 2008.

Wendi Weber,

Acting Regional Director, Northeast Region,
U.S. Fish and Wildlife Service, Hadley,
Massachusetts.

[FR Doc. E8-3576 Filed 2-25-08; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R5-R-2008-N0013; 50130-1265-0000-S3]

Iroquois National Wildlife Refuge, Genesee County and Orleans County, NY

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare a comprehensive conservation plan (CCP) and an associated National Environmental Policy Act (NEPA) document for Iroquois National Wildlife Refuge (NWR). We provide this notice in compliance with our planning policy to advise other agencies, Tribes, and the public of our intentions, and to obtain suggestions and information on the scope of issues to consider. We are also requesting public comments.

DATES: To ensure consideration, we must receive your written comments by April 30, 2008. We will hold public meetings to begin the CCP planning process; see *Public Meetings* under **SUPPLEMENTARY INFORMATION**. We will announce opportunities for public input in local news media throughout the CCP planning process, and will announce upcoming public meetings in local news media and the refuge Web site.

ADDRESSES: Send your comments or requests for more information by any of the following methods.

Electronic mail:
northeastplanning@fws.gov. Include "Iroquois NWR CCP/EA" in the subject line of the message.

U.S. Postal Service: Iroquois NWR, 1101 Casey Road, Basom, NY, 14013.

In-Person Drop-off, Viewing, or Pickup: Call 585-948-5445 to make an appointment during regular business hours at 1101 Casey Road, Alabama, NY.

Fax: 585-948-9538.

FOR FURTHER INFORMATION CONTACT: Thomas Roster, Project Leader, at 585-948-5445, or Thomas Bonetti, Planning Team Leader, at 413-253-8307.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we initiate our process for developing a CCP for Iroquois NWR in Genesee County and Orleans County, NY. We provide this notice in compliance with our planning

policy to (1) advise other Federal and State agencies and the public of our intention to conduct detailed planning on this refuge and (2) obtain suggestions and information on the scope of topics to consider in the environmental document and during development of the CCP.

Background

The CCP Process

The National Wildlife Refuge System Improvement Act of 1997 (Improvement Act) (16 U.S.C. 668dd-668ee), which amended the National Wildlife Refuge System Administration Act of 1966, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System (NWRS), consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Improvement Act and NEPA.

We establish each unit of the NWRS for specific purposes. We use these purposes as the bases to develop and prioritize management goals and objectives for the refuge within the NWRS mission, and to determine how the public can use the refuge. The planning process is a way for us and the public to evaluate management goals and objectives for the best possible conservation approach to this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with the refuge's establishing purposes and the mission of the NWRS. Our CCP process provides opportunities for Tribal, State, and local governments; agencies; organizations; and the public to participate. At this time, we encourage the public to provide input in the form of issues, concerns, ideas, and suggestions for the future management of Iroquois NWR.

We will conduct the environmental review of this environmental assessment in accordance with the requirements of NEPA, as amended (42 U.S.C. 4321 et seq.); NEPA regulations (40 CFR parts

1500–1508); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

Iroquois National Wildlife Refuge

Iroquois NWR was established in 1958 under the Migratory Bird Conservation Act for “* * *use as an inviolate sanctuary, or for any other management purpose, for migratory birds (16 U.S.C. 715d).” The refuge consists of more than 10,800 acres within the rural townships of Alabama and Shelby, New York, midway between Buffalo and Rochester. Freshwater marshes and hardwood swamps are bounded by forests, grasslands, and wet meadows. These areas serve the habitat needs of both migratory and resident wildlife, including waterfowl, songbirds, mammals, and amphibians, as well as numerous indigenous plant species.

Scoping: Preliminary Issues, Concerns, and Opportunities

We have identified preliminary issues, concerns, and opportunities that we may address in the CCP. We have briefly summarized these issues below. During public scoping, we may identify additional issues.

Iroquois NWR incorporates several management techniques to create desired habitat types and wildlife rich environments. Some of the management techniques to be addressed in the CCP will include prescribed fire, haying, water level management, invasive species control through herbicide application, removal of select artificial nest structures, and mechanical manipulation of habitats.

Additionally, public use throughout the refuge will be reevaluated in relation to wildlife-dependent recreation and other mission compatible uses. These uses will include waterfowl, big game, small game, and turkey hunting; fishing and fishing access points; trapping area(s) and the permitting process; seasonal access throughout the refuge;

deletion, addition, or modification of the trails, overlooks, and parking areas; and visitor facilities.

Public Meetings

We will involve the public through open houses, informational and technical meetings, and written comments. We will release mailings, news releases, and announcements to provide information about opportunities for public involvement in the planning process. You can obtain the schedule from the planning team leader or project leader (see **ADDRESSES**). You may also submit comments anytime during the planning process by mail, electronic mail, or fax (see **ADDRESSES**). There will be additional opportunities to provide public input once we have prepared a draft CCP.

We anticipate that public meetings will be held in three locations: Basom, New York; Albion, New York; and Batavia, New York. For specific information including dates, times, and locations, contact the project leader (see **ADDRESSES**) or visit our Web site at <http://www.fws.gov/northeast/iroquois>.

Public Availability of Comments

Our practice is to make comments, including names, home addresses, home phone numbers, and electronic mail 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 organizations or businesses, and from

individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Dated: February 19, 2008.

Wendi Weber,

Acting Regional Director, Northeast Region, U.S. Fish and Wildlife Service, Hadley, Massachusetts.

[FR Doc. E8–3571 Filed 2–25–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–IA–2008–N0037; 96300–1671–0000–P5]

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein.

Marine Mammals

Permit No.	Applicant	Receipt of application Federal Register notice	Permit issuance date
170327	Lester A. Pride	72 FR 73350; Dec. 27, 2007	Jan. 31, 2008.
170114	Thomas K. Joyce	72 FR 73350; Dec. 27, 2007	Feb. 5, 2008.
169697	William J. Muzyl	72 FR 72749; Dec. 21, 2007	Jan. 28, 2008.
171622	Leo C. Potter	72 FR 73349; Dec. 27, 2008	Jan. 31, 2008.
170341	Daniel H. Smith, III	72 FR 73350; Dec. 27, 2008	Feb. 1, 2008.
170600	Kevin E. Johnson	72 FR 73350; Dec. 27, 2008	Jan. 30, 2008.
169695	Alan J. Stone	72 FR 73350; Dec. 27, 2007	Feb. 1, 2008.
163763	Nicholas A. DiJoseph	72 FR 73350; Dec. 27, 2007	Feb. 5, 2008.
170349	Frank A. Bove	72 FR 73349; Dec. 27, 2008	Feb. 1, 2008.

Dated: February 8, 2008.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits,
Division of Management Authority.

[FR Doc. E8-3627 Filed 2-25-08; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R1-FHC-2008-N35; 81331-1334-8TWG-W4]

Trinity Adaptive Management Working Group

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Trinity Adaptive Management Working Group (TAMWG) affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council (TMC). The meeting is open to the public.

DATES: TAMWG will meet from 1 p.m. to 5 p.m. on Monday, March 10, 2008 and from 8:30 to 12:00 noon on Tuesday, March 11, 2008.

ADDRESSES: The meeting will be held at the Weaverville Victorian Inn, 1709 Main St., 299 West, Weaverville, CA 96093.

FOR FURTHER INFORMATION CONTACT:

Randy A. Brown of the U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521; telephone: (707) 822-7201. Randy A. Brown is the TAMWG Designated Federal Officer. For background information and questions regarding the Trinity River Restoration Program (TRRP), please contact Douglas Schleusner, Executive Director, Trinity River Restoration Program, P.O. Box 1300, 1313 South Main Street, Weaverville, CA 96093; telephone: (530) 623-1800; E-mail: dschleusner@mp.usbr.gov.

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), this notice announces a meeting of the (TAMWG).

Primary objectives of the meeting will include discussion of the following topics:

- 2008 flow schedule,
- Carryover storage of water allocated to instream use,
- TRRP budget,
- TRRP watershed restoration program, and
- Interactions between wild and hatchery fish.

Completion of the agenda is dependent on the amount of time each item takes. The meeting could end early if the agenda has been completed.

Dated: February 7, 2008.

Randy A. Brown,

Designated Federal Officer, Arcata Fish and Wildlife Office, Arcata, CA.

[FR Doc. E8-3572 Filed 2-25-08; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

[FWS-R1-ES-2008-XXXX; 10120-1112-0000-F2]

Oregon Parks and Recreation Department Habitat Conservation Plan for the Western Snowy Plover in Clatsop, Tillamook, Lincoln, Lane, Douglas, Coos, and Curry Counties, OR

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of public comment period.

SUMMARY: This notice advises the public and other interested parties that the comment period for the Draft Environmental Impact Statement (DEIS), Habitat Conservation Plan (HCP), Incidental Take Permit (ITP) application, and Implementing Agreement (IA) regarding the Oregon Parks and Recreation Department's (OPRD) HCP for the western snowy plover is reopened for fifteen days. The original notice contains additional information and was published in the **Federal Register** on November 5, 2007 (72 FR 62485).

The OPRD has submitted an application to the U.S. Fish and Wildlife Service (Service) for an ITP pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA). As required by section 10(a)(2)(B) of the ESA, the OPRD has also prepared an HCP that describes the proposed actions and measures the applicant will implement to minimize and mitigate take of the threatened western snowy plover (*Charadrius alexandrinus nivosus*). The permit application is related to public use, recreation, beach management, and resource management activities along Oregon's coastal shores.

The Service generally allows 45 days for public comment on a DEIS which evaluates the impacts of a proposed HCP and associated ITP on the human environment. The original comment period on the DEIS was from November 5, 2007, to January 4, 2008, and extended over several Federal holidays

so the Service provided a 60-day comment period. However, during that period, the Pacific Northwest coast experienced extreme weather with coastal wind damage and flooding, potentially affecting the ability of interested parties to obtain necessary documents for review. Since the area damaged by severe weather encompassed the area potentially affected by the proposed HCP, we are reopening the public comment period for 15 days following publication of this notice. Comments received will become part of the public record and will be available for review pursuant to section 10(c) of the ESA. For locations to review the documents, please see the **SUPPLEMENTARY INFORMATION** section below.

DATES: Comments must be received from interested parties on or before March 12, 2008. Written comments may be sent by mail, facsimile, or e-mail to the addresses listed below.

ADDRESSES: All written comments and requests for information should be addressed to: Laura Todd, U.S. Fish and Wildlife Service, Newport Field Office, 2127 SE OSU Drive, Newport, OR 97365-5258; facsimile (541) 867-4551. You may submit comments by postal mail/commercial delivery or by e-mail. Submit comments by e-mail to FWIORDHCP@fws.gov. In the subject line of the e-mail include the identifier OPRD HCP EIS.

SUPPLEMENTARY INFORMATION: The documents, comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address. You may view or download the draft HCP and DEIS on the Internet at <http://www.fws.gov/oregonfwo/FieldOffices/Newport/> or from OPRD's Web site at http://www.egov.oregon.gov/OPRD/PLANS/osmp_hcp.shtml.

Copies of the HCP and DEIS are available at the following libraries: Astoria Public Library, 450 Tenth St., Astoria, Oregon 97103; Bandon Public Library, City Hall, Hwy 101, Bandon, Oregon 97411; Chetco Community Public Library, 405 Alder St., Brookings, Oregon 97415; Coos Bay Public Library, 525 Anderson, Coos Bay, Oregon 97420; Siuslaw Public Library, District 1460 9th St., Florence, Oregon 97439; Curry Public Library, 29775 Colvin St., Gold Beach, Oregon 97444; Manzanita Branch Library, 571 Laneda, Manzanita, Oregon 97130; Newport Public Library, 35 NW Nye St., Newport, Oregon 97365; Marilyn Potts Guin Library, Hatfield Marine Science Center, Oregon State University, 2030 Marine Science Drive, Newport, OR 97365; Port Orford Public

Library, 555 W. 20th St., Port Orford, Oregon 97465; Reedsport Branch Library, 395 Winchester Ave., Reedsport, Oregon 97467; Seaside Public Library, 60 N Roosevelt Blvd., Seaside, Oregon 97138; Tillamook County Library, 1716 3rd St., Tillamook, Oregon 97141; Warrenton Community Library, 225 S Main Ave., Warrenton, Oregon 97146.

FOR FURTHER INFORMATION CONTACT: For further information or to receive copies of the documents on CD ROM, please contact Laura Todd at (541) 867-4558.

Public Comments

Comments received, including names and addresses, will become part of the administrative record and will be available for review pursuant to section 10(c) of the ESA. Anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, are available for public inspection in their entirety.

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. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. 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. We will honor your request to withhold your personal information to the extent allowable by law.

This notice is provided pursuant to section 10(c) of the ESA and Service regulations for implementing National Environmental Policy Act, as amended (40 CFR 1506.6). If we determine that all requirements are met, we will issue an ITP under section 10(a)(1)(B) of the ESA to OPRD for the take of the western snowy plover, incidental to otherwise lawful activities in accordance with the HCP, the IA, and ITP.

Dated: January 22, 2008.

David J. Wesley,

Deputy Regional Director, Fish and Wildlife Service, Portland, Oregon,

[FR Doc. 08-825 Filed 2-25-08; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R9-IA-2008-N0036; 96300-1671-0000-P5]

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by March 27, 2008.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203; fax 703/358-2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358-2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Kenneth D. Drawdy, Jr., Leesburg, GA, PRT-168857.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Endangered Marine Mammals and Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered marine mammals and/or

marine mammals. The applications were submitted to satisfy requirements of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and/or the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing endangered species (50 CFR part 17) and/or marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Niladri Basu, University of Michigan, Ann Arbor, MI, PRT-165727.

The applicant requests a permit for the import of biological samples from the brains of polar bears (*Ursus maritimus*) obtained from animals taken for native subsistence harvest in East Greenland for the purpose of scientific research on the effects of chemical pollution on the health of Arctic polar bear populations. This notification covers the one-time activity to be conducted by the applicant within a one-year period.

Applicant: Graham A.J. Worthy, University of Central Florida, Orlando, FL, PRT-056326.

The applicant requests to renew and amend his permit for take of up to 20 captive-held Florida manatee (*Trichechus manatus*) per year for the purpose of scientific research on the physiological ecology of the Florida manatee. In addition to experiments on the thermoregulatory and osmoregulatory capability of this species, biological samples will be obtained from live and dead salvaged specimens. This notification covers activities to be conducted by the applicant over a five-year period.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Dated: February 8, 2008.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority,

[FR Doc. E8-3629 Filed 2-25-08; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

[FWS-R9-IA-2008-N0026; 96300-1671-0000-P5]

Receipt of Applications for Permit**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Notice of receipt of applications for permit.**SUMMARY:** The public is invited to comment on the following applications to conduct certain activities with endangered species.**DATES:** Written data, comments or requests must be received by March 27, 2008.**ADDRESSES:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203; fax 703/358-2281.**FOR FURTHER INFORMATION CONTACT:** Division of Management Authority, telephone 703/358-2104.**SUPPLEMENTARY INFORMATION:****Endangered Species**

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: The Peregrine Fund, Boise, ID, PRT-065258.

The applicant requests renewal of their permit to import, export, and re-export multiple shipments of biological samples from wild, captive-held, and/or captive born endangered species of the Order Falconiformes and Strigiformes from worldwide sources, for the purpose of scientific research. No animals can be intentionally killed for the purpose of collecting specimens. Any invasively collected samples can only be collected by trained personnel. This notification covers activities conducted by the applicant over a period of 5 years.

Applicant: Zoological Society of San Diego, San Diego, CA, PRT-171205.

The applicant requests a permit to export biological samples from one male captive-born ring-tailed lemur (*Lemur catta*) to Dr. Werner Schempp, Albert-Ludwig Universitat, Freiburg, Germany, for the purpose of scientific research.

Applicant: Orlando Deandar, McAllen, TX, PRT-173461.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Spencer C. Scott, San Antonio, TX, PRT-147912.

The applicant requests a permit to import the sport-hunted trophy of one male black Rhinoceros (*Diceros bicornis*) taken from a ranch in the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Field Museum of Natural History, Chicago, IL, PRT-698170.

The applicant requests renewal of their permit to export and re-import non-living museum specimens of endangered and threatened species of plants and animals previously accessioned into the applicant's collection for scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

Dated: February 1, 2008.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E8-3630 Filed 2-25-08; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[UTU 42920]

Public Land Order No. 7689; Revocation of Secretarial Order Dated June 28, 1943; Utah**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Public land order.

SUMMARY: This order revokes a Secretarial Order in its entirety, as it affects the remaining 160 acres of lands in Box Elder and Cache Counties, Utah, withdrawn from surface entry and mining on behalf of the Bureau of Reclamation for the Bear River Storage

Project. The lands are no longer needed for reclamation purposes and this order will open the lands to surface entry and mining.

EFFECTIVE DATE: March 27, 2008.**FOR FURTHER INFORMATION CONTACT:**

Rhonda Flynn, BLM Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101-1345, 801-539-4132.

SUPPLEMENTARY INFORMATION: The Project was never developed and the lands are no longer needed for reclamation purposes. The Bureau of Reclamation has requested the withdrawal revocation. Approximately 1,080 acres were originally withdrawn, but the Secretarial Order has since been partially revoked. A copy of the pertinent withdrawal orders containing a legal description of the lands involved is available from the BLM Utah State Office at the address above.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), *it is ordered* as follows:

1. The Secretarial Order dated June 28, 1943, which originally withdrew approximately 1,080 acres of lands from surface entry and mining and reserved them on behalf of the Bureau of Reclamation for the Bear River Storage Project, is hereby revoked in its entirety as to any remaining lands.

2. At 10 a.m. on March 27, 2008, the lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on March 27, 2008, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on March 27, 2008, the lands will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands referenced in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (2000), shall vest no rights against the United States. State law governs acts required to establish a location and to initiate a right of possession where not in conflict with

Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: February 6, 2008.

C. Stephen Allred,

Assistant Secretary—Land and Minerals Management.

[FR Doc. E8-3608 Filed 2-25-08; 8:45 am]

BILLING CODE 4310-MN-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of an Environmental Assessment for the Alternative Energy and Alternate Use Proposed Rule

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Preparation of an environmental assessment (EA).

SUMMARY: The MMS is issuing this notice to advise the public, pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.*, that the MMS intends to prepare an EA for the Alternative Energy and Alternate Use (AEAU) proposed rule. The MMS is issuing this notice to facilitate public involvement. The preparation of this EA is an important step in the rulemaking process. An Advanced Notice of Proposed Rulemaking was published in the **Federal Register** on December 30, 2005. A Final Programmatic Environmental Impact Statement (FEIS) analyzed the establishment of the MMS AEAU program, of which rulemaking is a component. The *Programmatic Environmental Impact Statement for Alternative Energy Development and Production and Alternate Use of Facilities on the Outer Continental Shelf* was published on November 6, 2007 (OCS EIS/EA MMS 2007-046).

FOR FURTHER INFORMATION CONTACT: Mr. James F. Bennett, Minerals Management Service, MS 4042, 381 Elden Street, Herndon, VA 20170. You may also contact Mr. Bennett by telephone at (703) 787-1660.

SUPPLEMENTARY INFORMATION: In August 2005, Congress enacted the Energy Policy Act of 2005. The Energy Policy Act of 2005 (EPA) amended section 8 of the OCS Lands Act (OCSLA), 43 U.S.C. 1337, to give the Secretary of the Interior (Secretary) authority to issue a lease, easement, or right-of-way on the OCS for activities that are not otherwise authorized by the OCSLA, or other applicable law, if those activities (1)

produce or support production, transportation, or transmission of energy from sources other than oil and gas or (2) use, for energy-related purposes or other authorized marine-related purposes, facilities currently or previously used for activities authorized under the OCSLA.

Subsection 8(p) of the OCSLA (42 U.S.C. 1337(p)) requires that the Secretary, in consultation with other relevant agencies, develop and issue any necessary regulations to implement its new authority. The Secretary delegated this authority to the Director, MMS.

Public Comments: Interested parties are requested to send, within 30 days of this Notice's publication, comments regarding any new information or issues that should be addressed in the EA. Comments may be submitted in one of the following two ways:

1. In written form enclosed in an envelope labeled "Comments on Alternative Energy Rulemaking EA" and mailed (or hand carried) to the Branch Chief, Environmental Assessment Branch, Minerals Management Service, MS 4042, 381 Elden Street, Herndon, VA 20170.

2. Electronically to the MMS e-mail address: alternative@mms.gov. To obtain single copies of the Programmatic EIS published on November 7, 2007, you may contact Mr. James F. Bennett, Minerals Management Service, MS 4042, 381 Elden Street, Herndon, VA 20170. You may also view the Programmatic EIS on the MMS Web site at: ocsenergy.anl.gov.

Dated: February 21, 2008.

Renee Orr,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. E8-3625 Filed 2-25-08; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan, Final Environmental Impact Statement, Saguardo National Park, AZ

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Availability, Final Environmental Impact Statement for the General Management Plan, Saguardo National Park, Tucson, Arizona.

SUMMARY: The National Park Service announces the availability of the Final Environmental Impact Statement (FEIS) for the General Management Plan (GMP) for Saguardo National Park, Arizona. This action follows the National

Environmental Policy Act of 1969, 42 U.S.C. 4332(c).

The document will provide a framework for management, visitor use, and facility development of the national park by the National Park Service for the next 15 to 25 years. The document describes three management alternatives including a no-action alternative and the preferred alternative of the National Park Service. In addition, the National Park Service analyzes anticipated environmental impacts of the alternatives. The National Park Service considered comments from the public, from traditionally associated American Indian tribes, and from government agencies on the draft plan when preparing the final.

Alternatives

Three management alternatives, including the no action alternative, were proposed in the Draft Environmental Impact Statement and have been carried forth into the Final Environmental Statement.

Alternative 1, the no action alternative, would be a continuation of current management trends and serves as a basis of comparison with the action alternatives.

Alternative 2, the preferred alternative, would emphasize protecting and preserving ecological processes and biological diversity by connecting dispersed wildlife and plant habitats with habitat corridors. The concept was developed to help protect biological and ecological diversity from being compromised by habitat fragmentation.

Alternative 3, the second action alternative, would emphasize providing a wider range of opportunities for visitor use that is compatible with protecting and preserving park resources and wilderness characteristics. The concept was developed because of public interest in expanding park programs and visitor-use opportunities for an increasingly diverse visitor population.

Date of Record of Decision: The National Park Service will execute a Record of Decision (ROD) no sooner than 30 days after publication by the Environmental Protection Agency of this notice of availability of the Final Environmental Impact Statement.

ADDRESSES: Copies of the Environmental Impact Statement/General Management Plan are available from Superintendent Sarah Craighead, Saguardo National Park, 3693 South Old Spanish Trail, Tucson, AZ 85730-5601; e-mail address sarah_craighead@nps.gov; or telephone number 520-733-5100. An electronic copy of the document is available on the

Internet at <http://parkplanning.nps.gov/sagu>.

FOR FURTHER INFORMATION CONTACT:

Contact Superintendent Sarah Craighead of Saguaro National Park at the address, telephone number, or electronic mail address shown above.

Dated: November 2, 2007.

Michael D. Snyder,

Regional Director, Intermountain Region, National Park Service.

[FR Doc. E8-3570 Filed 2-25-08; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

Cape Cod National Seashore; South Wellfleet, MA; Cape Cod National Seashore Advisory Commission; Two Hundredth Sixty Fourth Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App 1, Section 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on February 25, 2008.

The Commission was reestablished pursuant to Public Law 87-126 as amended by Public Law 105-280. The purpose of the Commission is to consult with the Secretary of the Interior, or her designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission members will meet at 1 p.m. in the meeting room at Headquarters, Marconi Station, Wellfleet, Massachusetts for the regular business meeting to discuss the following:

1. Adoption of Agenda.
2. Approval of Minutes of Previous Meeting (December 11, 2007).
3. Reports of Officers.
4. Reports of Subcommittees.
- Improved Properties/Town Bylaws.
- Wind Turbines/Cell Towers.
5. Superintendent's Report. Herring River Restoration update. Update on Dune Shacks and Report. Highlands Center Update. Alternate Transportation Funding. Centennial Challenge.
6. Old Business.
7. New Business.
8. Date and agenda for next meeting.
9. Public comment and
10. Adjournment.

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: January 10, 2008.

George E. Price, Jr.,

Superintendent.

[FR Doc. E8-3599 Filed 2-25-08; 8:45 am]

BILLING CODE 4310-WV-P

DEPARTMENT OF THE INTERIOR

National Park Service

National Preservation Technology and Training Board—National Center for Preservation Technology and Training: Meeting

AGENCY: National Park Service, U.S. Department of the Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. Appendix (1988)), that the Preservation Technology and Training Board (Board) of the National Center for Preservation Technology and Training (NCPTT), National Park Service will meet on Tuesday and Wednesday, April 15-16, 2008, in Natchitoches, Louisiana.

The Board was established by Congress to provide leadership, policy advice, and professional oversight to the National Park Service's National Center for Preservation Technology and Training (National Center) in compliance with section 404 of the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470x-2(e)).

The Board will meet at Lee H. Nelson Hall, the headquarters of NCPTT, at 645 University Parkway, Natchitoches, LA 71457—telephone (318) 356-7444. The meeting will run from 9 a.m. to 5 p.m. on April 15 and from 9 a.m. to 12 p.m. on April 16.

The Board's meeting agenda will include: review and comment on National Center FY2007 accomplishments and operational priorities for FY2008; FY2008 and FY2009 National Center budget and initiatives; proposed Conference on Sustainability in Preservation; revitalization of the Center's Friends group, and Board workgroup reports.

The Board meeting is open to the public. Facilities and space for accommodating members of the public are limited, however, and persons will be accommodated on a first come, first served basis. Any member of the public may file a written statement concerning any of the matters to be discussed by the Board.

Persons wishing more information concerning this meeting, or who wish to submit written statements, may contact: Mr. Kirk A. Cordell, Executive Director, National Center for Preservation Technology and Training, National Park Service, U.S. Department of the Interior, 645 University Parkway, Natchitoches, LA 71457—telephone (318) 356-7444. In addition to U.S. Mail or commercial delivery, written comments may be sent by fax to Mr. Cordell at (318) 356-9119.

Minutes of the meeting will be available for public inspection no later than 90 days after the meeting at the office of the Executive Director, National Center for Preservation Technology and Training, National Park Service, U.S. Department of the Interior, 645 University Parkway, Natchitoches, LA 71457—telephone (318) 356-7444.

Dated: January 23, 2008.

Kirk A. Cordell,

Executive Director, National Center for Preservation Technology and Training, National Park Service.

[FR Doc. E8-3609 Filed 2-25-08; 8:45 am]

BILLING CODE 4312-53-P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-632]

In the Matter of Certain Refrigerators and Components Thereof; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 23, 2008, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Whirlpool Patents Company of St. Joseph, Michigan; Whirlpool Manufacturing Corporation of St. Joseph, Michigan; Whirlpool Corporation of Benton Harbor, Michigan; and Maytag Corporation of Benton Harbor, Michigan. A supplement to the complaint was filed on February 11, 2008. The complaint, as supplemented, alleges violations of section 337 based

upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain refrigerators and components thereof that infringe certain claims of U.S. Patent Nos. 6,082,130; 6,810,680; 6,915,644; 6,971,730; and 7,240,980. The complaint, as supplemented, further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, as supplemented, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Rett Snotherly, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2599.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2007).

Scope of Investigation: Having considered the complaint, as supplemented, the U.S. International Trade Commission, on February 20, 2008, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain refrigerators and components thereof that infringe on one or more of claims 1, 2, 4, 6, 8, and 9 of

U.S. Patent No. 6,082,130; claims 1-14 of U.S. Patent No. 6,810,680; claims 1-13 of U.S. Patent No. 6,915,644; claims 2, 3, 7-12, 22-24, and 29 of U.S. Patent No. 6,971,730; and claims 1 and 3-20 of U.S. Patent 7,240,980, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Whirlpool Patents Company, 500 Renaissance Drive, Suite 102, St. Joseph, Michigan 49085.

Whirlpool Manufacturing Corporation, 500 Renaissance Drive, Suite 102, St. Joseph, Michigan 49085.

Whirlpool Corporation, 2000 North M-63, Benton Harbor, Michigan 49022.

Maytag Corporation, 2000 North M-63, Benton Harbor, Michigan 49022.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

LG Electronics, Inc., LG Twin Towers, 20 Yeouido-dong, Yeongdeungpo-gu, Seoul, 150-721, South Korea.

LG Electronics, USA, Inc., 1000 Sylvan Ave., Englewood Cliffs, New Jersey 07632.

LG Electronics Monterrey, Mexico, S.A., DE, CV, Av. Industrias 180, Fracc Industrial Pimsa Ote., 66603 Apodaca, Nuevo Leon, Mexico.

(c) The Commission investigative attorney, party to this investigation, is Rett Snotherly, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401Q, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Theodore R. Essex is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the

right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or cease and desist orders or both directed against the respondent.

By order of the Commission.

Issued: February 21, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8-3575 Filed 2-25-08; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Agreed Amendment to the Consent Decree Providing for Remedial Actions at Neal's Landfill, Lemon Lane Landfill and Bennett's Dump and Addressing General Matters Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on February 19, 2008, a proposed Amendment to the Consent Decree Providing for Remedial Actions at Neal's Landfill, Lemon Lane Landfill and Bennett's Dump and Addressing General Matters ("Amendment") in *United States of America, et al., v. CBS Corporation*, Civil Action No. 1:81-cv-0448-RLY-KPF was lodged with the United States District Court for the Southern District of Indiana.

In 1985, CBS entered into a Consent Decree with the United States, the State of Indiana, the City of Bloomington and Monroe County to remove and incinerate PCB contamination from six sites in and near Bloomington, Indiana. The proposed Amendment is the last in a series of partial settlements that the parties have negotiated over the past 10 years to replace the remedial measures in the original 1985 settlement. The proposed Amendment requires CBS to perform additional cleanup actions selected by the U.S. Environmental Protection Agency to address PCB contamination in groundwater, surface water, soils and sediment at the last three sites. CBS shall, among other things, expand and operate the existing water treatment plant at Illinois Central Spring, expand the collection system and operate the existing treatment plant at Neal's Landfill, and build and operate

a new collection and treatment system at Bennett's Dump. The Amendment also requires CBS to pay \$6.67 million dollars to reimburse EPA for response costs incurred in investigating and cleaning up the sites, as well as requires CBS to pay \$1.88 million to the Department of the Interior for the purpose of restoring or replacing natural resources that have been injured by ongoing releases of PCBs from the sites.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Amendment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States of America, et al., v. CBS Corporation*, D.J. Ref. 90-7-1-212A.

The Amendment may be examined at the Office of the United States Attorney, 10 W. Market St., Suite 2100, Indianapolis, IN 46204, and at U.S. EPA Region V, 77 West Jackson Blvd., Chicago, IL 60604-3590. During the public comment period, the Amendment, may also be examined on the following Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Amendment may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$207.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address. In requesting a copy exclusive of appendices, please enclose a check in the amount of \$17.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

William Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8-3542 Filed 2-25-08; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF JUSTICE

Notice of Extension of Period for Public Comments Regarding Settlement Agreement

Notice is hereby given that the period in which the Department of Justice will receive public comments regarding the Settlement Agreement lodged in the case of *American International Specialty Lines Insurance Company, Inc. v. NWI-I, Inc., et al.*, Civil Action No. 05-6386 (N.D. Ill.), is extended through and including April 1, 2008. The lodging of this Settlement Agreement was previously announced, and a 30-day comment period commenced, by publication in the **Federal Register** on January 17, 2008.

Through and including April 1, 2008, the Department of Justice will receive comments relating to the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. In either case, the comments should refer to *AISLIC v. NWI-I, Inc.*, D.J. Ref. No. 90-11-2-07096/1.

The proposed settlement agreement may be examined at the Office of the United States Attorney, Northern District of Illinois, Eastern Division, 219 S. Dearborn St., 5th Floor, Chicago, IL 60604, and at the Environmental Protection Agency's Region 5 office, 77 W. Jackson Blvd., Chicago, IL 60604. During the public comment period, the proposed consent decree may also be examined on the following Department of Justice Web site: http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax number (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$33.00 (or \$6.00 for a copy that omits the exhibits and signature pages) (25 cents per page reproduction cost) payable to the United States Treasury or, if by e-mail or fax, forward a check

in that amount to the Consent Decree Library at the stated address.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8-3610 Filed 2-25-08; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF JUSTICE

Notice of Extension of Public Comment Period Regarding Lodging of Consent Decree Pursuant to the Clean Air Act

On January 25, 2008 (73 FR 4629), the United States Department of Justice published notice of the lodging of a Consent Decree in *United States v. S.H. Bell Company* ("S.H. Bell"), Civil Action No. 4:08-cv-96 (N.D. Ohio). The United States is now extending the period for public comment through and including March 10, 2008. All comments from the public on the Consent Decree described below must be received by that date.

The proposed Consent Decree was lodged with the United States District Court for the Northern District of Ohio on January 14, 2008. The Consent Decree resolves claims against S.H. Bell brought by the United States on behalf of the Environmental Protection Agency ("EPA") for violations of the Clean Air Act ("CAA"), 42 U.S.C. 7401-7671q, regulations implementing the CAA, the Ohio State Implementation Plan ("Ohio SIP") and the Pennsylvania State Implementation Plan ("Pennsylvania SIP") at two terminals of S.H. Bell's facility located at 2217 Michigan Avenue (Stateline Terminal) and 1 Saint George Street East (Little England Terminal), Liverpool, Ohio. In this action, the United States sought civil penalties for S.H. Bell's alleged failure to apply for appropriate permits under the CAA, the Ohio SIP and the Pennsylvania SIP for stationary sources at its two terminals; failure to obtain a permit to install ("PTI"), and timely comply with control requirements of a valid PTI, as required by the Ohio SIP at certain stationary sources at its East Liverpool facility; and violations of the General Provisions of the New Source Performance Standards ("NSPS") set forth at 40 CFR 60.7 and 60.8 for nonmetallic mineral processing plants. Under the Consent Decree, S.H. Bell shall: (1) Pay a civil penalty of \$50,000; (2) comply with all applicable emissions limitations and testing requirements in its existing source operating permits and any amendments; (3) cooperate with Ohio Environmental Protection Agency ("Ohio EPA") and Pennsylvania

Department of Environmental Protection ("Pennsylvania DEP") officials in the processing of S.H. Bell's filed applications for appropriate source permits at its East Liverpool facility; (4) certify that it does not currently process nonmetallic minerals at its East Liverpool facility, and in the event that it resumes processing such nonmetallic minerals, comply with applicable provisions of NSPS; and (5) implement two Supplemental Environmental Projects valued at \$386,592, consisting of a Truck Loadout Shed and Road Paving Projects at its East Liverpool facility.

The Department of Justice previously provided notice that it would receive comments relating to the Consent Decree for a period of 30 days from the original publication of notice of lodging in the **Federal Register**. That comment period would have ended on February 24, 2008. A private citizen group requested an extension of time to submit comments on the Consent Decree. The Department of Justice, in consultation with EPA, determined that the extension is appropriate and that the public comment period should be extended for a period of two weeks. Therefore, the United States Department of Justice will accept comments on the proposed Consent Decree through March 10, 2008.

Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to United States Department of Justice, P.O. Box 7611, Washington, DC 20044-7611, and should refer to *United States v. S.H. Bell Co.*, Civil No. 4:08-cv-96 (N.D. Ohio), and DOJ Reference No. 90-5-2-1-07823.

The proposed Consent Decree may be examined at: (1) The Office of the United States Attorney for the Northern District of Ohio, 801 West Superior Avenue, Suite 400, Cleveland, OH, 44113 (216-622-3600); and (2) the United States Environmental Protection Agency (Region 5), 77 West Jackson Blvd., Chicago, IL 60604-3507 (contact: John C. Matson (312-886-2243)).

During the public comment period, the proposed Consent Decree may also be examined on the following U.S. Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the proposed Consent Decree may also be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no.

(202) 514-0097, phone confirmation no. (202) 514-1547. In requesting a copy from the Consent Decree Library, please refer to the referenced case and DOJ Reference Number and enclose a check in the amount of \$10.00 for the Consent Decree only (40 pages, at 25 cents per page reproduction costs), or \$19.25 for the Consent Decree and Appendix A (77 pages), made payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8-3543 Filed 2-25-08; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States: 2008 Adverse Effect Wage Rates, Allowable Charges for Agricultural and Logging Workers' Meals, and Maximum Travel Subsistence Reimbursement

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice of Adverse Effect Wage Rates, allowable charges for meals, and maximum travel subsistence reimbursement for 2008.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department or DOL) is issuing this Notice to announce: The 2008 Adverse Effect Wage Rates (AEWRs) for employers seeking to employ temporary or seasonal nonimmigrant foreign workers to perform agricultural labor or services (H-2A workers) or logging (H-2B logging workers); the allowable charges for 2008 that employers seeking H-2A workers and H-2B logging workers may levy upon their workers when three meals a day are provided by the employer; and the maximum travel subsistence reimbursement which a worker with receipts may claim in 2008.

AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers of H-2A workers or H-2B logging workers to U.S. and foreign workers for a particular occupation and/or area so that the wages of similarly employed U.S. workers will not be adversely affected (20 CFR 655.100(b) and 655.200(b)). In

this Notice the Department announces the AEWRs for 2008. The Department also announces the new rates for 2008 which agricultural and logging employers may charge their workers for three daily meals, and the minimum and maximum charge of travel subsistence expenses a worker may claim in 2008.

EFFECTIVE DATE: February 26, 2008.

FOR FURTHER INFORMATION CONTACT:

William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, Room C-4312, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-693-3010 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The U.S. Citizenship and Immigration Services of the Department of Homeland Security may not approve an employer's petition for the admission of H-2A nonimmigrant temporary agricultural workers or H-2B nonimmigrant temporary logging workers in the United States unless the petitioner has received from DOL an H-2A or H-2B labor certification, as appropriate. Approved labor certifications attest: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed (8 U.S.C. 1101(a)(15)(H)(ii)(a), 1101(a)(15)(H)(ii)(b), 1184(c), and 1188(a); 8 CFR 214.2(h)(5) and (6)).

DOL's regulations for the H-2A and H-2B logging programs require employers to offer and pay their U.S., H-2A, and H-2B logging workers no less than the appropriate hourly AEWR in effect at the time the work is performed (20 CFR 655.102(b)(9) and 655.202(b)(9); see also 20 CFR 655.107, 20 CFR 655.207¹).

A. Adverse Effect Wage Rates for 2008

AEWRs are the minimum wage rates which must be offered and paid to U.S. and foreign workers by employers of H-2A workers or H-2B logging workers (20 CFR 655.100(b) and 20 CFR 655.200(b)). Employers of H-2A workers must pay the highest of (i) the AEWR, in effect, at the time the work is performed; (ii) the

¹ For additional information regarding the AEWR, see the preamble of the Final Rule, 54 FR 28037-28047 (July 5, 1989), which explained in depth the purpose and history of AEWR, DOL's policy in setting the AEWR, and the AEWR computation methodology at 20 CFR 655.107(a). See also 52 FR 20496, 20502-20505 (June 1, 1987).

applicable prevailing wage; or (iii) the statutory minimum wage, as specified in the regulations (20 CFR 655.102(b)(9)). As U.S. Department of Agriculture (USDA) regional surveys are not available for logging occupations, employers of H-2B logging workers must pay at least the prevailing wage in the area of intended employment, which is deemed to be the AEW (20 CFR 655.202(b)(9); 20 CFR 655.207(a)).

Except as otherwise provided in 20 CFR part 655, subpart B, the region-wide AEW for all agricultural employment (except those occupations deemed inappropriate under the special circumstance provisions of 20 CFR 655.93) for which temporary H-2A certification is being sought is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the USDA (20 CFR 655.107(a)). USDA does not provide data on Alaska.

20 CFR 655.107(a) requires the Administrator of the Office of Foreign Labor Certification to publish USDA field and livestock worker (combined) wage data as AEWs in a **Federal Register** Notice. Accordingly, the 2008 AEWs for agricultural work performed by U.S. and H-2A workers on or after the effective date of this Notice are set forth in the table below:

TABLE—2008 ADVERSE EFFECT WAGE RATES

State	2008 AEWs
Alabama	\$8.53
Arizona	8.70
Arkansas	8.41
California	9.72
Colorado	9.42
Connecticut	9.70
Delaware	9.70
Florida	8.82
Georgia	8.53
Hawaii	10.86
Idaho	8.74
Illinois	9.90
Indiana	9.90
Iowa	10.44
Kansas	9.90
Kentucky	9.13
Louisiana	8.41
Maine	9.70
Maryland	9.70
Massachusetts	9.70
Michigan	10.01
Minnesota	10.01
Mississippi	8.41
Missouri	10.44
Montana	8.74
Nebraska	9.90
Nevada	9.42
New Hampshire	9.70
New Jersey	9.70
New Mexico	8.70

TABLE—2008 ADVERSE EFFECT WAGE RATES—Continued

State	2008 AEWs
New York	9.70
North Carolina	8.85
North Dakota	9.90
Ohio	9.90
Oklahoma	9.02
Oregon	9.94
Pennsylvania	9.70
Rhode Island	9.70
South Carolina	8.53
South Dakota	9.90
Tennessee	9.13
Texas	9.02
Utah	9.42
Vermont	9.70
Virginia	8.85
Washington	9.94
West Virginia	9.13
Wisconsin	10.01
Wyoming	8.74

For all logging employment, the AEW shall be the prevailing wage rate in the area of intended employment, and the employer is required to pay at least that rate (20 CFR 655.207(a)).

B. Allowable Meal Charges

Among the minimum benefits and working conditions which DOL requires employers to offer their U.S., H-2A, and H-2B logging workers are three meals a day or free and convenient cooking and kitchen facilities (20 CFR 655.102(b)(4); 655.202(b)(4)). When the employer provides meals, the job offer must state the charge, if any, to the worker for meals.

DOL has published at 20 CFR 655.102(b)(4) and 655.111(a) the methodology for determining the maximum amounts that H-2A agricultural employers may charge their U.S. and foreign workers for meals. The same methodology is applied at 20 CFR 655.202(b)(4) and 655.211(a) to H-2B logging employers. These rules provide for annual adjustments of the previous year's allowable charges based upon Consumer Price Index (CPI) data.

Each year, the maximum charges allowed by 20 CFR 655.102(b)(4) and 655.202(b)(4) are adjusted by the same percentage as the twelve-month percent change in the CPI for all Urban Consumers for Food (CPI-U for Food). ETA may permit an employer to charge workers no more than the higher maximum amount set forth in 20 CFR 655.111(a) and 655.211(a), as applicable, for providing them with three meals a day, if justified and sufficiently documented. Each year, the higher maximum amounts permitted by 20 CFR 655.111(a) and 655.211(a) are changed by the same percentage as the twelve-

month percent change in the CPI-U for Food. The program's regulations require DOL to make the annual adjustments and to publish a Notice in the **Federal Register** each calendar year, announcing annual adjustments in allowable charges that may be made by agricultural and logging employers for providing three meals daily to their U.S. and foreign workers. The 2007 rates were published in the **Federal Register** at 72 FR 7909 (February 21, 2007).

DOL has determined the percentage change between December of 2006 and December of 2007 for the CPI-U for Food was 4.0 percent. Accordingly, the maximum allowable charges under 20 CFR 655.102(b)(4), 655.202(b)(4), 655.111, and 655.211 were adjusted using this percentage change, and the new permissible charges for 2008, are as follows: (1) Charges under 20 CFR 655.102(b)(4) and 655.202(b)(4) shall be no more than \$9.90 per day, unless ETA has approved a higher charge pursuant to 20 CFR 655.111 or 655.211; (2) charges under 20 CFR 655.111 and 655.211 shall be no more than \$12.27 per day, if the employer justifies the charge and submits to ETA the documentation required to support the higher charge.

C. Maximum Travel Subsistence Expense

The regulations at 20 CFR 655.102(b)(5) establish that the minimum daily travel subsistence expense, for which a worker is entitled to reimbursement, is equivalent to the employer's daily charge for three meals or, if the employer makes no charge, the amount permitted under 20 CFR 655.102(b)(4). The regulation is silent about the maximum amount to which a qualifying worker is entitled.

The Department established the maximum meals component of the standard Continental United States (CONUS) per diem rate established by the General Services Administration (GSA) and published at 41 CFR part 301, Appendix A. The CONUS meal component is now \$39.00 per day.

Workers who qualify for travel reimbursement are entitled to reimbursement up to the CONUS meal rate for related subsistence when they provide receipts. In determining the appropriate amount of subsistence reimbursement, the employer may use the GSA system under which a traveler qualifies for meal expense reimbursement per quarter of a day. Thus, a worker whose travel occurred during two quarters of a day is entitled, with receipts, to a maximum reimbursement of \$19.50. If a worker has no receipts, the employer is not

obligated to reimburse above the minimum stated at 20 CFR 655.102(b)(4) as specified above.

Signed in Washington, DC, this 20th day of February, 2008.

Douglas F. Small,

Deputy Assistant Secretary, Employment and Training Administration.

[FR Doc. E8-3567 Filed 2-25-08; 8:45 am]

BILLING CODE 4510-FP-P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2008-2]

Review of Copyright Royalty Judges Determination

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice; correction.

SUMMARY: The Register of Copyrights published a document in the **Federal Register** of February 19, 2008, reviewing the determinations of the Copyright Royalty Judges for setting rates and terms for use of the sections 112 and 114 statutory licenses by New Subscription Services, Preexisting Subscription Services and Preexisting Satellite Digital Audio Radio Services.

FOR FURTHER INFORMATION CONTACT: Tanya Sandros, General Counsel, Copyright Office. Telephone (202) 707-8380.

CORRECTION

In the **Federal Register** of February 19, 2008, in Docket No. 2008-2, correct the following citations to read:

On page 9144 in the second column, third paragraph, line five, "71 FR 1455".

On page 9144 in the third column, first paragraph, last line, "72 FR 71795".

On page 9145 in the third column, sixth line from the top, "72 FR 61586".

Dated: February 20, 2008

Tanya Sandros,

General Counsel.

[FR Doc. E8-3619 Filed 2-25-08; 8:45 am]

BILLING CODE 1410-30-S

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 08-01]

Agency Information Collection Request; Comment Request

AGENCY: Millennium Challenge Corporation.

ACTION: 60 Day Notice.

SUMMARY: The Millennium Challenge Corporation, in accordance with the

Paperwork Reduction Act of 1995, invites public comment on a proposed information collection request. Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes on collection of information which the Millennium Challenge Corporation intends to seek OMB approval.

DATES: Please submit comments by April 22, 2008.

ADDRESSES: To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced below, e-mail your request, including your address, phone number, OMB number to Kellytj@mcc.gov, or call Thomas Kelly at (202) 521-3600. Written comments and recommendations for the proposed information collection must be received within 60 days of this notice, and directed to Thomas Kelly, Director, Economic Policy at the following address: Millennium Challenge Corporation; 875 15th Street, NW.; Washington, DC 20005.

SUPPLEMENTARY INFORMATION: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, as amended, the Millennium Challenge Corporation (MCC) is publishing the following summary of a proposed information collection for public comment. Interested persons are invited to send comments on: (i) The necessity and utility of the proposed collection of information for the proper performance of the agency's functions; (ii) the accuracy of the estimated burden; (iii) the quality, utility and clarity of the information to be collected; and (iv) the burden of the collection of information on those who are to respond, including various technological collection techniques or other forms of information technology to minimize the information collection burden.

Proposed Project: A survey of international development organizations to assist in measuring MCC's leadership role in development practice. This survey, conducted by an independent organization, will become a part of MCC's data measuring its performance under the provisions of the Government Performance Results Act of 1993. It will seek to measure how MCC is affecting

change in the manner development assistance is administered by other organizations providing similar assistance.

Abstract:

Type of Information Collection Request: New Request.

Title of Information Collection: Leadership in Development Assistance Survey.

Use: The Millennium Challenge Act of 2003 (Pub. L. 108-199) established the Millennium Challenge Corporation (MCC) to reduce poverty through sustainable economic growth to poor countries demonstrating through their policy performance their commitment to good governance. One of MCC's strategic goals, as stated in its strategic plan developed pursuant to GPRA, is to "advance the international development practice." This survey will gather information regarding how MCC's unique model of assistance is impacting the development assistance community. In particular, it will measure whether other organizations recognize the distinguishing characteristics of MCC's approach to providing foreign assistance, whether they believe that MCC's approach represents best practice, and whether they are modifying their own assistance programs to include elements of MCC's approach. The survey will be conducted by phone to organizations and individuals selected by MCC. Data gathered by the independent survey will be provided to MCC for the purpose of assessing its performance with respect to the above-stated goal.

Frequency: Biannual.

Affected Public: International donors, foundations, Think Tanks, Academicians.

Biannual Number of Respondents: 300.

Total Biannual Responses: 300.

Average Burden per Response: 10 minutes.

Total Biannual Hours: 50 hours.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number to Kellytj@mcc.gov, or call Thomas Kelly, Director, Economic Policy at (202) 521-3600. Written comments and recommendations for the proposed information collection must be received within 60 days of this notice, and directed to Thomas Kelly, Director, Economic Policy at the following address: Millennium Challenge Corporation; Policy and International Relations; 875 15th Street, NW.; Washington, DC 20005.

Authority: The Paperwork Reduction Act of 1995 and 5 CFR 1320.8(d).

Dated: February 19, 2008.

William G. Anderson, Jr.,

*Vice President and General Counsel,
Millennium Challenge Corporation.*

[FR Doc. 08-828 Filed 2-25-08; 8:45 am]

BILLING CODE 9211-03-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (08-019)]

NASA Advisory Council; Science Committee; Heliophysics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration (NASA) announces a meeting of the Heliophysics Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The Meeting will be held for the purpose of soliciting from the scientific community and other persons scientific and technical information relevant to program planning.

DATES: Wednesday, March 19, 2008, 8:30 a.m. to 5:30 p.m., Thursday, March 20, 2008, 8:30 a.m. to 5:30 p.m., and Friday, March 21, 8:30 a.m. to Noon.

ADDRESSES: NASA Headquarters, 300 E Street, SW., Room 5H45, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358-4452, fax (202) 358-4118, or mnnorris@nasa.gov.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Heliophysics Division Overview and Program Status.

—Overview of Heliophysics Fiscal Year 2009 Budget.

—Report of the Mission Planning Working Group.

—Review of Decadal Scientific Goals and Progress Toward Meeting Them.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the

presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information no less than 5 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizenship can provide identifying information 3 working days in advance by contacting Marian Norris via e-mail at mnnorris@nasa.gov or by telephone at (202) 358-4452.

Dated: February 19, 2008.

P. Diane Rausch,

*Advisory Committee Management Officer,
National Aeronautics and Space Administration.*

[FR Doc. E8-3536 Filed 2-25-08; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL SCIENCE FOUNDATION

Committee Management; Renewal

The NSF management officials having responsibility for the two advisory committees listed below have determined that renewing these groups for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation by 42 U.S.C. 1861, *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

1. Advisory Committee for Environmental Research and Education (#9487).

2. Proposal Review Panel for Industrial Innovation and Partnerships (#28164).

The effective date for renewal will be February 29, 2008. For more information contact Susanne Bolton at (703) 292-7488.

Dated: February 21, 2008.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. E8-3612 Filed 2-25-08; 8:45 am]

BILLING CODE 7555-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-219-LR]

In the Matter of Amergen Energy Company, LLC (License Renewal for Oyster Creek Nuclear Generating Station)

Commissioners: Dale E. Klein, Chairman, Gregory B. Jaczko, Peter B. Lyons.

Notice of Appointment of Adjudicatory Employee

Pursuant to 10 CFR 2.4, notice is hereby given that Dr. Mahendra Shah, Commission employee of the Office of Nuclear Material Safety and Safeguards, Division of High Level Waste Repository Safety, has been appointed as a Commission adjudicatory employee within the meaning of Section 2.4, to advise the Commission regarding issues related to the pending Commission review of LBP-07-17. Dr. Shah has not previously performed any investigative or litigating function in connection with this or any related proceeding. Until such time as a final decision is issued in this matter, interested persons outside the agency and agency employees performing investigative or litigating functions in this proceeding are required to observe the restrictions of 10 CFR 2.347 and 2.348 in their communications with Dr. Shah. *It is so ordered.*

Dated at Rockville, Maryland, this 20th day of February 2008.

For the Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E8-3593 Filed 2-25-08; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030-34325]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for Amendment of a Materials Permit in Accordance With Byproduct Materials License No. 03-23853-01VA, for Unrestricted Release of a Department of Veterans Affairs Facility in Tucson, AZ

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: William Snell, Senior Health Physicist, Decommissioning Branch, Division of Nuclear Materials Safety, Region III, U.S. Nuclear Regulatory Commission, 2443 Warrenville Road, Lisle, Illinois 60532; telephone: (630) 829-9871; fax number: (630) 515-1259; or by e-mail at wgs@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend a materials permit held under Byproduct Materials License No. 03-23853-01VA. The permit is held by the Department of Veterans Affairs (the Licensee), for its Southern Arizona VA Health Care System facilities, located at 3601 South 6th Avenue, Tucson, Arizona (Facility). Issuance of the amendment would authorize release of Building 32 (described below) for unrestricted use. The Licensee requested this action in a letter dated June 12, 2007. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's June 12, 2007, materials permit amendment request, resulting in release of Building 32 for unrestricted use. License No. 03-23853-01VA was issued on March 17, 2003, pursuant to 10 CFR Parts 30 and 35, and has been amended periodically since that time. This license authorizes the Licensee to use byproduct materials at several Licensee facilities around the country, as authorized on a site-specific basis by permits issued by the Licensee's National Radiation Safety Committee. Under the license, the permits authorize the use of by-product materials for various medical and veterinary purposes, and for use in portable gauges.

The Facility is situated on a 116 acre site comprised of about 40 buildings, and is located in a mixed residential/industrial urban area of Tucson, Arizona. Within the Facility, Building 32 was constructed in 1969 as a single story block frame and brick structure.

The building was used to house animals for research until July 1975 when it was used for interim storage and treatment (by disposal to sewer and incineration) of radioactive research and medical waste. The licensee ceased using licensed materials in Building 32 on September 1, 2004, and initiated surveys and decontamination of the building. Based on the Licensee's historical knowledge of the site and the conditions within Building 32, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of Building 32 during September through November 2004. The results of these surveys along with other supporting information were provided to the NRC to demonstrate that the criteria in Subpart E of 10 CFR Part 20 for unrestricted release have been met.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities in Building 32, and seeks the unrestricted use of Building 32.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted in Building 32 shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: hydrogen-3 (H-3) and carbon-14 (C-14). Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of Building 32 affected by these radionuclides.

The Licensee completed final status surveys on Building 32 on November 8, 2004. The surveys covered all areas of Building 32. The final status survey report was attached to the Licensee's amendment request dated June 12, 2007. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 using the screening approach described in NUREG-1757, "Consolidated NMSS Decommissioning Guidance," Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs provide acceptable levels of surface contamination to demonstrate

compliance with the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities" (NUREG-1496) Volumes 1-3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material in Building 32. The NRC staff reviewed available docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding Building 32. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that issuance of the proposed amendment authorizing release of Building 32 for unrestricted use is in compliance with 10 CFR part 20. Based on its review, the staff considered the impact of the residual radioactivity from Building 32 and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that Building 32 meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in

current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the Arizona Radiation Regulatory Agency for review on December 27, 2007. The State had no comments regarding the EA.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. E. Lynn McGuire, Department of Veterans Affairs, letter to Cassandra Frazier, U.S. Nuclear Regulatory

Commission, Region III, dated June 12, 2007 (ADAMS Accession No. ML071650164);

2. Gary Williams, Department of Veterans Affairs, E-mail to William Snell, U.S. Nuclear Regulatory Commission, Region III, dated August 20, 2007 (ADAMS Accession No. ML072780281);

3. Thomas Huston, Department of Veterans Affairs, E-mail to William Snell, U.S. Nuclear Regulatory Commission, Region III, dated September 21, 2007 (ADAMS Accession No. ML072910118);

4. Thomas Huston, Department of Veterans Affairs, E-mail to William Snell, U.S. Nuclear Regulatory Commission, Region III, dated October 19, 2007 (ADAMS Accession No. ML072920554);

5. Title 10 Code of Federal Regulations, part 20, subpart E, "Radiological Criteria for License Termination;"

6. Title 10 Code of Federal Regulations, part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;"

7. NUREG-1496, "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;"

8. NUREG-1757, "Consolidated NMSS Decommissioning Guidance."

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov. These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Lisle, Illinois, this 14th day of February 2008.

For the Nuclear Regulatory Commission.

Patrick Loudon,

Chief, Decommissioning Branch, Division of Nuclear Materials Safety, Region III.

[FR Doc. E8-3585 Filed 2-25-08; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 31 to February 13, 2008. The last biweekly notice was published on February 12, 2008 (73 FR 8068).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-

day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, person(s) may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request via electronic submission through the NRC E-Filing system for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management

System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention:

Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397-4209, (301) 415-4737 or by e-mail to pdr@nrc.gov.

Carolina Power & Light Company, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: August 13, 2007.

Description of amendments request: The amendment would revise Technical Specification (TS) Table 3.3.1.2-1, "Source Range Monitor [SRM] Instrumentation," to add a note that specifies the required locations of SRMs in Mode 5 during core alterations, and also to make an administrative correction to Unit 1 TS Surveillance Requirement (SR) 3.3.1.2.2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes are administrative in nature. There are no requirements being added, deleted, or altered as a result of either of the proposed changes.

The change to Table 3.3.1.2-1 adds a footnote to Table 3.3.1.2-1 which duplicates the Mode 5 operable SRM location requirements currently specified in SR 3.3.1.2.2 and discussed in the LCO [limiting condition for operation] bases section for TS 3.3.1.2. The specific Mode 5 operable SRM location requirements are not being changed and are consistent with the requirements provided in the current version of NUREG-1433. This change is being done as an aid to Operations personnel, to help prevent inadvertently missing the requirements.

The change to SR 3.3.1.2.2 for Unit 1 corrects a typographical error to be consistent with other locations within the Unit 1 and Unit 2 TSs as well as the current version of NUREG 1433.

The proposed changes do not involve a physical change to the SRMs, nor do they alter the assumptions of the accident analyses. Therefore, the probability and the consequences of an accident previously evaluated are not affected.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a physical change to the SRMs, nor do they alter the assumptions of the accident analyses. The changes are purely administrative in nature. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed changes are administrative in nature, being done as an aid to Operations personnel, to help prevent inadvertently missing the Mode 5 operable SRM location requirements and to correct a typographical error. There are no requirements being added, deleted, or altered as a result of either

of the proposed changes. As such, the proposed changes do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David T. Conley, Associate General Counsel II—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Branch Chief: Thomas H. Boyce.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: January 15, 2008.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) Surveillance Requirement (SR) frequency in TS 3.1.3, "Control Rod OPERABILITY" from "7 days after the control rod is withdrawn and THERMAL POWER is greater than the [Low Power Setpoint] LPSP of [Rod Worth Minimizer] RWM" to "31 days after the control rod is withdrawn and THERMAL POWER is greater than the LPSP of the RWM" and revise Example 1.4–3 in Section 1.4 "Frequency" to clarify the applicability of the 1.25 surveillance test interval extension. The proposed amendment does not adopt the clarification of Source Range Monitor (SRM) TS action for inserting control rods, which is applicable only to Boiling Water Reactor (BWR)/6 plants. Since Fermi 2 is a BWR/4 plant, this change in TSTF–475, Revision 1 is not applicable and therefore, not adopted.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration by a reference to a generic analysis published in the **Federal Register** on November 13, 2007 (72 FR 63935), which is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated Biweekly Notice Coordinator.

The proposed change generically implements TSTF–475, Revision 1, "Control Rod Notch Testing Frequency and SRM Insert Control Rod Action." TSTF–475, Revision 1 modifies NUREG–1433 (BWR/4) and NUREG–1434 (BWR/6) STS. The changes: (1) Revise TS testing frequency for surveillance requirement (SR) 3.1.3.2 in TS 3.1.3, "Control Rod OPERABILITY", [], and

(3) revise Example 1.4–3 in Section 1.4 "Frequency" to clarify the applicability of the 1.25 surveillance test interval extension. The consequences of an accident after adopting TSTF–475, Revision 1 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–475, Revision 1 will: (1) Revise the TS SR 3.1.3.2 frequency in TS 3.1.3, "Control Rod OPERABILITY", [], and (3) revise Example 1.4–3 in Section 1.4 "Frequency" to clarify the applicability of the 1.25 surveillance test interval extension. The GE Nuclear Energy Report, "CRD Notching Surveillance Testing for Limerick Generating Station," dated November 2006, concludes that extending the control rod notch test interval from weekly to monthly is not expected to impact the reliability of the scram system and that the analysis supports the decision to change the surveillance frequency. Therefore, the proposed changes in TSTF–475, Revision 1 [] do not involve a significant reduction in a margin of safety.

The Nuclear Regulatory Commission (NRC) staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David G. Pettinari, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226–1279.
NRC Acting Branch Chief: Patrick Milano.

Duke Power Company LLC, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: July 30, 2007.

Description of amendment request: The amendments would revise the Technical Specifications to allow single header operation of the nuclear service water system (NSWS) for a time period

of 35 days. The change will facilitate future maintenance of the NSWS headers.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

[First Standard]

Does operation of the facility in accordance with the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed single supply header operation configuration for NSWS operation and the associated proposed TS and Bases changes have been evaluated to assess their impact on plant operation and to ensure that the design basis safety functions of safety related systems are not adversely impacted. During single supply header operation, the operating NSWS header will be able to supply all required NSWS flow to safety related components. It was demonstrated that proposed single failures would not cause the NSWS to be rendered incapable of performing its required safety related function under accident conditions.

The purpose of this amendment request is to ultimately facilitate inspection and maintenance of the NSWS supply headers. Therefore, NRC approval of this request will ultimately help to enhance the long-term structural integrity of the NSWS and will help to ensure the system's reliability for many years.

In general, the NSWS serves as an accident mitigation system and cannot by itself initiate an accident or transient situation. The only exception is that the NSWS piping can serve as a source of floodwater to safety related equipment in the auxiliary building or in the diesel generator buildings in the event of a leak or a break in the system piping. The probability of such an event is not significantly increased as a result of this proposed request. NSWS piping added in support of the proposed request will be tested and maintained in a manner consistent with that for comparable safety related piping in the NSWS.

The proposed 35 day TS Required Action Completion Time has been evaluated for risk significance and the results of this evaluation have been found acceptable. The probabilities of occurrence of accidents presented in the UFSAR will not increase as a result of implementation of this change. Because the PRA analysis supporting the proposed change yielded acceptable results, the NSWS will maintain its required availability in response to accident situations. Since NSWS availability is maintained, the response of the plant to accident situations will remain acceptable and the consequences of accidents presented in the UFSAR will not increase.

[Second Standard]

Does operation of the facility in accordance with the proposed amendment create the

possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Implementation of this amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed request does not affect the basic operation of the NSWS or any of the systems that it supports. These include the Emergency Core Cooling System, the Containment Spray System, the Containment Valve Injection Water System, the Auxiliary Feedwater System, the Component Cooling Water System, the Control Room Area Ventilation System, the Control Room Area Chilled Water System, the Auxiliary Building Filtered Ventilation Exhaust System, or the Diesel Generators. During proposed single supply header operation, the NSWS will remain capable of fulfilling all of its design basis requirements, even when assuming the required single failure.

No new accident causal mechanisms are created as a result of NRC approval of this amendment request. No changes are being made to the plant which will introduce any new type of accident outside those assumed in the UFSAR.

[Third Standard]

Does operation of the facility in accordance with the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

Implementation of this amendment will not involve a significant reduction in any margin of safety. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of these fission product barriers will not be impacted by implementation of this proposed TS amendment. During single supply header operation, the NSWS and its supported systems will remain capable of performing their required functions even assuming the postulated single failure. No safety margins will be impacted.

The PRA conducted for this proposed amendment demonstrated that the impact on overall plant risk remains acceptable during single supply header operation. Therefore, there is not a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.

NRC Branch Chief: Melanie C. Wong, Acting.

**Duke Power Company LLC, et al.,
Docket Nos. 50-413 and 50-414,
Catawba Nuclear Station, Units 1 and
2, York County, South Carolina**

Date of amendment request:
September 27, 2007.

Description of amendment request:
The amendments would modify Technical Specification (TS) 3.7.2 (Main Steam Isolation Valves) and TS 3.7.3 (Main Feedwater Isolation Valves, Main Feedwater Control Valves, Associated Bypass Valves and Tempering Valves) by removing the specific isolation time for the isolation valves from the associated Surveillance Requirements.

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

Criterion 1: The Proposed Changes Do Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed changes allow relocating main steam and main feedwater valve isolation times to the licensee-controlled document that is referenced in the Bases. The proposed changes are described in Technical Specification Task Force (TSTF) Standard TS Change Traveler TSTF-491 related to relocating the main steam and main feedwater valves isolation times to the licensee-controlled document that is referenced in the Bases and replacing the isolation time with the phrase, "within limits." The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed). The proposed changes relocate the main steam and main feedwater isolation valve times to the licensee-controlled document that is referenced in the Bases. The requirements to perform the testing of these isolation valves are retained in the TSs. Future changes to the Bases or licensee-controlled document will be evaluated pursuant to the requirements of 10 CFR 50.59, "Changes, test and experiments," to ensure that such changes do not result in more than a minimal increase in the probability or consequences of an accident previously evaluated. The proposed changes do not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes do not adversely

affect the ability of structures, systems and components (SSCs) to perform their intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological consequences of any accident previously evaluated. Further, the proposed changes do not increase the types and the amounts of radioactive effluent that may be released, nor significantly increase individual or cumulative occupational/public radiation exposures. Therefore, the changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2: The Proposed Changes Do Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed changes relocate the main steam and main feedwater valve isolation times to the licensee-controlled document that is referenced in the Bases. In addition, the valve isolation times are replaced in the TS with the phrase "within limits". The changes do not involve a physical altering of the plant (i.e., no new or different type of equipment will be installed) or a change in methods governing normal plant operation. The requirements in the TSs continue to require testing of the main steam and main feedwater isolation valves to ensure the proper functioning of these isolation valves. Therefore, the changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3: The Proposed Changes Do Not Involve a Significant Reduction in the Margin of Safety.

The proposed changes relocate the main steam and main feedwater valve isolation times to the licensee-controlled document that is referenced in the Bases. In addition, the valve isolation times are replaced in the TSs with the phrase "within limits." Instituting the proposed changes will continue to ensure the testing of main steam and main feedwater isolation valves. Changes to the Bases or licensee-controlled document are performed in accordance with 10 CFR 50.59. This approach provides an effective level of regulatory control and ensures that main steam and feedwater isolation valve testing is conducted such that there is no significant reduction in the margin of safety. The margin of safety provided by the isolation valves is unaffected by the proposed changes since there continue to be TS requirements to ensure the testing of main steam and main

feedwater isolation valves. The proposed changes maintain sufficient controls to preserve the current margins of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.
NRC Branch Chief: Melanie C. Wong, Acting.

Exelon Generation Company, LLC, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request:
December 21, 2007.

Description of amendment request:
The proposed amendment revises Technical Specification (TS) Surveillance Requirements (SR) 3.8.4.2 and 3.8.4.5 to add an additional acceptance criterion to verify that total battery connector resistance is within pre-established limits that ensure the batteries can perform their design functions. The proposed amendment is in response to a non-cited violation that was documented in NRC Component Design Bases Inspection Report 05000254/2006003(DRS), 05000265/2006003(DRS).

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The revisions of SR 3.8.4.2 and SR 3.8.4.5 to add a battery connector resistance acceptance criterion will not challenge the ability of the safety-related batteries to perform their safety function. Appropriate monitoring and maintenance will continue to be performed on the safety-related batteries. In addition, the safety-related batteries are within the scope of 10 CFR 50.65, "Requirements for monitoring the effectiveness of maintenance at nuclear power plants," which will ensure the control of maintenance activities associated with this equipment.

Current TS requirements will not be altered and will continue to require that the equipment be regularly monitored and tested. Since the proposed change does not alter the manner in which the batteries are operated,

there is no significant impact on reactor operation.

The proposed change does not involve a physical change to the batteries, nor does it change the safety function of the batteries. The proposed TS revision involves no significant changes to the operation of any systems or components in normal or accident operating conditions and no changes to existing structures, systems, or components.

Therefore, these changes will not increase the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes revising SR 3.8.4.2 and SR 3.8.4.5 to add an additional acceptance criterion for battery connector resistance is an increase in conservatism, without a change in system testing methods, operation, or control. Safety-related batteries installed in the plant will be required to meet criteria more restrictive and conservative than current acceptance criteria and standards. The proposed change does not affect the manner in which the batteries are tested and maintained; therefore, there are no new failure mechanisms for the system.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The margin of safety is established through the design of the plant structures, systems, and components, the parameters within which the plant is operated, and the setpoints for the actuation of equipment relied upon to respond to an event. The proposed change does not modify the safety limits or setpoints at which protective actions are initiated. The change is conservative and further ensures safety-related battery operability and availability.

As such, sufficient DC capacity to support operation of mitigation equipment is enhanced, which results in an increase in the margin of safety.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Bradley J. Fewell, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Russell Gibbs.

FPL Energy Duane Arnold, LLC, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request:
December 20, 2007.

Description of amendment request:
Duane Arnold Energy Center (DAEC) requests a change, consistent with the adoption of TSTF-475, Revision 1, an approved change to the Standard Technical Specifications (STS) for General Electric (GE) Plants (NUREG-1433, BWR/4) and plant specific technical specifications (TS), that allows: (1) Revising the frequency of Surveillance Requirement (SR) 3.1.3.2, notch testing of fully withdrawn control rod, from "7 days after the control rod is withdrawn and THERMAL POWER is greater than 20% [Rated Thermal Power] RTP" to "31 days after the control rod is withdrawn and THERMAL POWER is greater than 20% RTP" and (2) revising Example 1.4-3 in Section 1.4 "Frequency" to clarify that the 1.25 surveillance test interval extension in SR 3.0.2 is applicable to time periods discussed in NOTES in the "SURVEILLANCE" column in addition to the time periods in the "FREQUENCY" column.

The NRC staff acknowledges that, in item (1) above, the wording that is to be adopted by the Duane Arnold TS in SR 3.1.3.2 ("31 days after the control rod is withdrawn and THERMAL POWER is greater than 20% RTP") is a deviation from the language in the Improved STS ("31 days after the control rod is withdrawn and THERMAL POWER is greater than the [Low Power Setpoint] LPSP of the [Rod Worth Minimizer] RWM.") This deviation from NUREG-1433 was incorporated into the DAEC TS by Amendment 223 dated May 22, 1998, in the conversion of the DAEC TS to the Improved STS.

Basis for proposed no significant hazards consideration determination:
As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (NSHC) through incorporation by reference of the NSHC determination (NSHCD) published in the **Federal Register**, Notice dated November 13, 2007, that announced the availability of TS improvement through the consolidated line item improvement process (CLIIP). The NSHCD, with references to BWR/6 information deleted and with clarifying comments inserted within brackets [], is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change generically implements TSTF-475, Revision 1, "Control Rod Notch Testing Frequency and SRM Insert Control Rod Action." TSTF-475, Revision 1 modifies NUREG-1433 (BWR/4)

STS. The changes: (1) Revise TS testing frequency for surveillance requirement (SR) 3.1.3.2 in TS 3.1.3, "Control Rod OPERABILITY" and (2) revise Example 1.4-3 in Section 1.4 "Frequency" to clarify the applicability of the 1.25 surveillance test interval extension.

The consequences of an accident after adopting TSTF-475, Revision 1 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.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

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.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

TSTF-475, Revision 1 [, as adopted by DAEC TS,] will: (1) Revise the TS SR 3.1.3.2 frequency in TS 3.1.3, "Control Rod OPERABILITY" and (2) revise Example 1.4-3 in Section 1.4 "Frequency" to clarify the applicability of the 1.25 surveillance test interval extension.

The GE Nuclear Energy Report, "CRD Notching Surveillance Testing for Limerick Generating Station," dated November 2006, concludes that extending the control rod notch test interval from weekly to monthly is not expected to impact the reliability of the scram system and that the analysis supports the decision to change the surveillance frequency. Therefore, the proposed changes in TSTF-475, Revision 1 [, as adopted by DAEC TS,] do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Marjan Mashhadi, Florida Power & Light Company, 801 Pennsylvania Avenue, Suite 220, Washington, DC 20004.

NRC Acting Branch Chief: Patrick Milano.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following

amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible 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/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397-4209, (301) 415-4737 or by e-mail to pdr@nrc.gov.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: November 15, 2007, as supplemented by letter dated December 21, 2007.

Brief description of amendment: The amendment is a one-time change that revised Technical Specification (TS)

Section 3.1.7, "Rod Position Indication." The requirements related to one inoperable bank demand position indicator (DPI) are modified by a footnote to allow two DPIs to be inoperable per bank for one or more banks on a temporary basis during the current operating cycle (Cycle 25). This provision allows for corrective maintenance on three inoperable DPIs in the rod position indication system that necessitates removing both DPIs for the affected rod banks from service during the repair. This amendment expires at the end of operating Cycle 25.

Date of issuance: January 29, 2008.

Effective date: Effective as of the date of issuance and shall be implemented within 60 days.

Amendment No.: 217.

Renewed Facility Operating License No. DPR-23: The amendment revises the Technical Specifications and Facility Operating License.

Date of initial notice in Federal Register: November 28, 2007 (72 FR 67321).

Public comments requested as to proposed no significant hazards consideration (NSHC): No.

The Commission's related evaluation of the amendment and final NSHC determination are contained in a safety evaluation dated January 29, 2008.

Attorney for licensee: David T. Conley, Associate General Counsel II—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602-1551.

NRC Branch Chief: Thomas H. Boyce.

Dominion Energy Kewaunee, Inc., Docket No. 50-305, Kewaunee Power Station, Kewaunee County, Wisconsin

Date of application for amendment: October 2, 2007.

Brief description of amendment: The amendment revises Technical Specification Sections 3.7, "Auxiliary Electrical Systems," and 4.6, "Periodic Testing of Emergency Power System," to change the testing requirements for ensuring operability of the remaining operable emergency diesel generator (EDG) when the other EDG is inoperable. In addition, the amendment adds a new specification when two EDGs are inoperable and revises the surveillance requirements for the EDGs.

Date of issuance: February 7, 2008.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 194.

Facility Operating License No. DPR-43: Amendment revised the License and Technical Specifications.

Date of initial notice in Federal Register: November 20, 2007 (72 FR 65363)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 2008.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., Docket No. 50-336, Millstone Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: February 16, 2007.

Brief description of amendment: The proposed amendment would revise Technical Specification 3/4.4.3, "Reactor Coolant System, Relief Valves" to modify the method of testing the pressurizer Power Operated Relief Valves (PORVs). Specifically, the requirement for bench testing the valves is changed to accommodate testing of the PORVs while installed in the plant. The change is requested due to the installation of new PORVs that are welded to the piping rather than bolted into the system.

Date of issuance: February 12, 2008.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 302.

Facility Operating License No. DPR-65: Amendment revised the License and Technical Specifications.

Date of initial notice in Federal Register: November 19, 2007 (72 FR 65084).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 12, 2008.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Units 1 and 2, Pope County, Arkansas

Date of amendment request: April 24, 2007, as supplemented by letter dated August 2, 2007, and electronic mail dated January 8, 2008.

Brief description of amendments: The amendments relocate the Fuel Handling Area Ventilation System and associated Ventilation Filter Testing Program requirements that are included in the Unit 1 Technical Specifications (TS) 3.7.12 and 5.5.11 and the Unit 2 TS 3.9.11 and 6.5.11 to the unit-specific Technical Requirements Manuals (TRMs). The TRMs are licensee-controlled documents which are controlled under 10 CFR 50.59, "Changes, tests, and experiments."

Date of issuance: February 4, 2008.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: Unit 1-231; Unit 2-274.

Renewed Facility Operating License Nos. DPR-51 and NPP-6: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: June 5, 2007 (72 FR 31098). The supplemental letter dated August 2, 2007, and electronic mail dated January 8, 2008, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 4, 2008.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: October 24, 2007.

Brief description of amendment: The amendment revises the containment buffering agent used for pH control under post loss-of-coolant accident (LOCA) conditions, from trisodium phosphate to sodium tetraborate.

Date of issuance: February 7, 2008.

Effective date: As of the date of issuance, and shall be implemented prior to entry into Mode 4 following completion of the spring 2008 refueling outage.

Amendment No.: 253.

Facility Operating License Nos. DPR-26: The amendment revised the License and the Technical Specifications.

Date of initial notice in Federal Register: December 4, 2007 (72 FR 68211).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 2008.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: July 25, 2007, as supplemented November 1, 2007.

Brief description of amendment: The proposed amendment would modify the

Technical Specifications by adding an Action Statement to the Limiting Conditions for Operation (LCOs) for TS 3.7.4, "Control Room Air Conditioning (AC) System." Specifically, the new Action statement allows 72 hours to restore one control room air conditioning subsystem to operable status and requires verification that the control room temperature remains below 90 °F every 4 hours during the period of inoperability. The change is consistent with NRC-approved Revision 3 to Technical Specifications Task Force (TSTF) Improved Standard Technical Specifications Change Traveler, TSTF-477, "Add Action Statement for Two Inoperable Control Room Air Conditioning Subsystems."

Date of issuance: January 23, 2008.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 290.

Facility Operating License No. DPR-59: The amendment revises the License and the Technical Specifications.

Date of initial notice in Federal Register: September 11, 2007 (72 FR 51855).

The November 1, 2007, supplement provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 23, 2008.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: November 6, 2006, supplemented by letters dated August 10, 2007, and December 20, 2007.

Brief description of amendment: The amendment would revise Appendix A, technical specification (TS), Core Operating Limits Report analytical methods referenced in TS 5.6.5.b to add EMF-2103 (P)(A), "Realistic Large Break LOCA Methodology for Pressurized Water Reactors."

Date of issuance: January 31, 2008.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment No.: 229.

Facility Operating License No. DPR-20: Amendment revised the technical specifications.

Date of initial notice in Federal Register: December 19, 2006 (71 FR 75995)

The supplemental letters contained clarifying information and did not change the initial no significant hazards consideration determination, and did not expand the scope of the original **Federal Register** notice. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 31, 2008.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Units 1 and 2, Will County, Illinois.

Date of application for amendment: January 8, 2007 as supplemented by letter dated October 12, 2007.

Brief description of amendment: The amendments extended the reactor trip system and engineered safety features actuation system completion times, bypass test times, and surveillance test intervals for technical specifications (TS) 3.3.1, "RTS Instrumentation," TS 3.3.2, "ESFAS Instrumentation," and TS 3.3.6, "Containment Ventilation Isolation Instrumentation."

Date of issuance: January 29, 2008.

Effective date: As of the date of issuance and shall be implemented within 120 days.

Amendment Nos.: 153, 153, 148, and 148.

Facility Operating License Nos. NPF-37, NPF-66, NPF-72 and NPF-77: The amendments revised the Technical Specifications and License.

Date of initial notice in Federal Register: March 27, 2007 (72 FR 14305).

The October 12, 2007, supplement, contained clarifying information and did not change the NRC staff's initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 29, 2008.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant, Units 3 and 4, Miami-Dade County, Florida

Date of application for amendments: November 12, 2007.

Brief description of amendments: The amendments revise TS 3.1.3.2, "Position Indication Systems—Operating," to

allow for the use of an alternate method, other than the movable incore detectors, to monitor the position of a control rod or shutdown rod in the event of a problem with the analog rod position indication system. The use of this alternate method will reduce the required frequency of flux mapping using the movable incore detectors to determine the position of the non-indicating rod, thus reducing the wear on the movable incore detector system that is also used to complete other required TS surveillances.

Date of issuance: January 28, 2008.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 237 and 232.

Renewed Facility Operating License Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 28, 2007 (72 FR 67323).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 28, 2008.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Oswego County, New York

Date of application for amendment: September 19, 2007.

Brief description of amendment: The amendment revises Limiting Condition for Operation 3.10.1 to expand its scope to include provisions for temperature excursions greater than 200 °F as a consequence of inservice leak and hydrostatic testing, and as a consequence of scram time testing initiated in conjunction with an inservice leak or hydrostatic test, while considering operational conditions to be in Mode 4, using the Consolidated Line Item Improvement Process.

Date of issuance: February 7, 2008.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 121.

Renewed Facility Operating License No. NPF-69: Amendment revised the License and Technical Specifications.

Date of initial notice in Federal Register: November 20, 2007 (72 FR 65368).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 2008.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: February 15, 2007, as supplemented on November 30, 2007.

Brief description of amendment: The amendment revised the Technical Specifications Surveillance Requirement (SR) 3.8.4.2, "DC [Direct Current] Sources—Operating," to specify that the Division 1 battery chargers are verified to supply ≥ 150 amps and the Division 2 battery chargers are verified to supply ≥ 110 amps.

Date of issuance: January 30, 2008.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 153.

Facility Operating License No. DPR-22: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 24, 2007 (72 FR 20384).

The supplemental letter contained clarifying information, did not change the initial no significant hazards consideration determination, and did not expand the scope of the original **Federal Register** notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 30, 2008.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: September 21, 2007.

Brief description of amendment: The amendment revises Technical Specifications (TS) safety limit (SL) requirements related to the use of a non-cycle specific peak linear heat rate (PLHR) SL of 22 kW/ft to fuel centerline melt (FCM). The TS change is consistent with the Technical Specification Task Force (TSTF) 445-A, Revision 1. Because these Limiting Safety Systems Setting (LSSS) values appear in the FCS TS Bases Sections of TS 1.3, TS 1.0, Safety Limits and Limiting Safety System Settings, was also revised to more clearly align with the Combustion Engineering (CE) Standard Technical Specifications (STS) 2.0 in content. Therefore, TS Section 1.1, Safety Limits—Reactor Core, is revised to incorporate the TSTF-445-A, Revision 1, peak fuel centerline temperature criteria and TS 1.2, Safety Limits—Reactor Coolant System Pressure, is revised to incorporate the SL violation

action which is currently delineated in administrative control TS 5.7.1. TS Section 1.3, Limiting Safety System Settings, was relocated to the currently unused TS Section 2.13 to be more consistent with the content of the CE STS (i.e., the LSSS will be located in the Limiting Conditions for Operation (LCO) section of the FCS TS which is similar to the LCO/Surveillance Requirements Section 3.0 of the STS). As noted above, the administrative control in TS 5.7.1, Safety Limit Violation, is relocated. Also, administrative control TS 5.9.5, Core Operating Limits Report (COLR), item a., is revised to add TS 2.13, RPS Limiting Safety System Settings, Table 2–11, Items 6, 8, and 9, to the list of items that shall be documented in the COLR. The TS Table of Contents (TOC) is also updated to reflect the deletion and subsequent renumbering of Section 1.3 and Table 1–1 to TS 2.13 and Table 2–11, respectively. The TOC is also updated to delineate the new TS subsections 1.1.1 and 1.1.2, provide the revised titles for TS 1.0, 1.1, 1.2, and 2.13, and to reflect TS 5.7.1 as “Not used.”

Date of issuance: February 4, 2008.

Effective date: As of its date of issuance and prior to startup from the 2008 refueling outage.

Amendment No.: 252.

Renewed Facility Operating License No. DPR–40: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: November 6, 2007 (72 FR 62690). The Commission’s related evaluation of the amendment is contained in a safety evaluation dated February 4, 2008.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket No. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2 (SSES 1 and 2), Luzerne County, Pennsylvania

Date of application for amendments: October 11, 2007, as supplemented on October 25, December 4 and 26, 2006, February 13, March 14 and 22, April 13, 17, 23, 26, and 27, May 3, 9, 14, and 21, June 1, 4, 8, 14, 20, and 27, July 6, 12, 13, 30, and 31, August 3, 13, 15, and 28, September 19, October 5, November 30, December 10, 2007, and January 9, 24, and 29, 2008.

Brief description of amendments: The amendments increase the SSES 1 and 2 licensed thermal power to 3952 Megawatts thermal (MWt), which is 20% above the original rated thermal power (RTP) of 3293 MWt, and approximately 13% above the current RTP of 3489 MWt. The amendments revise the SSES

1 and 2 Operating License and Technical Specifications necessary to implement the increased power level.

Date of issuance: January 30, 2008.

Effective date: As of the date of issuance and to be implemented in accordance with the issued License Conditions.

Amendment Nos.: 246 and 224.

Facility Operating License Nos. NPF–14 and NPF–22: The amendments revised the License and Technical Specifications.

Date of initial notice in Federal Register: March 13, 2007 (72 FR 11392). The supplements dated October 25, December 4 and 26, 2006, February 13, March 14 and 22, April 13, 17, 23, 26, and 27, May 3, 9, 14, and 21, June 1, 4, 8, 14, 20, and 27, July 6, 12, 13, 30, and 31, August 3, 13, 15, and 28, September 19, October 5, November 30, December 10, 2007, and January 9, 24, and 29, 2008, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff’s original proposed no significant hazards consideration determination.

The Commission’s related evaluation of the amendments is contained in a Safety Evaluation dated January 30, 2008.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 15th day of February 2008.

For The Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8–3481 Filed 2–25–08; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413, 50–414, 50–369 and 50–370]

Duke Power Company LLC, et al.; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–35 and NPF–52 issued to Duke Power Company LLC, et al., for operation of the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina, and Facility Operating License

Nos. NPF–9 and NPF–17 for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The proposed amendment would revise the Catawba Nuclear Station, Units 1 and 2, and the McGuire Nuclear Station, Units 1 and 2, Updated Final Safety Analysis Reports by requiring an inspection of each ice condenser within 24 hours of experiencing a seismic event greater than or equal to an operating basis earthquake within the five (5) week period after ice basket replenishment has been completed to confirm that adverse ice fallout has not occurred.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission’s regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission’s regulations in Title 10 of the Code of Federal Regulations (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The analyzed accidents of consideration in regard to changes potentially affecting the ice condenser are a loss of coolant accident and a steam or feedwater line break inside Containment. The ice condenser is an accident mitigator and is not postulated as being the initiator of a LOCA [loss-coolant-accident] or HELB [high-energy line break]. The ice condenser is structurally designed to withstand a Safe Shutdown Earthquake plus a Design Basis Accident and does not interconnect or interact with any systems that interconnect or interact with the Reactor Coolant, Main Steam or Feedwater systems. Because the proposed changes do not result in, or require any physical change to the ice condenser that could introduce an interaction with the Reactor Coolant, Main Steam or Feedwater systems, there can be no change in the probability of an accident previously evaluated.

Under the current licensing basis, the ice condenser ice baskets would be considered fully fused prior to power ascension and the ice condenser would perform its accident mitigation function even if a safe shutdown seismic event occurred coincident with or just preceding the accident. Under the proposed change, there is some finite probability that, within 24 hours following a seismic disturbance, a LOCA or HELB in Containment could occur within five weeks of the completion of ice basket replenishment. However, several factors provide defense-in-depth and tend to mitigate the potential consequences of the proposed change.

Design basis accidents are not assumed to occur simultaneously with a seismic event. Therefore, the coincident occurrence of a LOCA or HELB with a seismic event is strictly a function of the combined probability of the occurrence of independent events, which in this case is very low. Based on the Probabilistic Risk Assessment model and seismic hazard analysis, the combined probability of occurrence of a seismic disturbance greater than or equal to an OBE during the 5 week period following ice replenishment coincident with or subsequently followed by a LOCA or HELB during the time required to perform the proposed inspection (24 hours) and if required by Technical Specifications, complete Unit shutdown (37 hours), is less than $2.2E-09$ for McGuire and Catawba. This probability is well below the threshold that is typically considered credible.

Even if ice were to fall from ice baskets during a seismic event occurring coincident with or subsequently followed by an accident, the ice condenser would be expected to perform its intended safety function. The design of the lower inlet doors is such that complete blockage of flow into the ice condenser is not credible during a LOCA or HELB. The inherent redundancy of flow paths into the ice condenser provide reasonable assurance that it would perform its function even if some lower inlet doors were blocked closed.

Based on the above, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The ice condenser is expected to perform its intended safety function under all circumstances following a LOCA or HELB in Containment.

B. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change affects the assumed timing of a postulated seismic and design basis accident applied to the ice condenser and provides an alternate methodology to confirm the ice condenser lower inlet doors are capable of opening. As previously discussed, the ice condenser is not postulated as an initiator of any design basis accident. The proposed change does not impact any plant system, structure or component that is an accident initiator. The proposed change does not involve any hardware changes to the ice condenser or other changes that could create new accident

mechanisms. Therefore, there can be no new or different accidents created from those previously identified and evaluated.

C. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the Reactor Coolant system, and the Containment system. The performance of the fuel cladding and the Reactor Coolant system will not be impacted by the proposed change.

The requirement to inspect the ice condensers within 24 hours of experiencing seismic activity greater than or equal to an OBE during the five (5) week period following the completion of ice basket replenishment will confirm that the ice condenser lower inlet doors are capable of opening. This inspection will confirm that the ice condenser doors remain fully capable of performing their intended safety function under credible circumstances.

The inherent redundancy of flow paths into the ice condenser provides reasonable assurance that it would perform its function even if some lower inlet doors were blocked closed. As such, the ice condenser has reasonable assurance of performing its intended function during the highly unlikely scenario in which a postulated accident (LOCA or HELB) occurs coincident with or subsequently following a seismic event.

The proposed change affects the assumed timing of a postulated seismic and design basis accident applied to the ice condenser and provides an alternate methodology in confirming the ice condenser lower inlet doors are capable of opening. As previously discussed, the combined probability of occurrence of a LOCA or HELB and a seismic disturbance greater than or equal to an OBE [operating basis earthquake] during the "period of potential exposure" is less than $2.2E-09$ for McGuire and Catawba. This probability is well below the threshold that is considered credible.

Therefore, the proposed change does not involve a significant reduction in the margin of safety. The McGuire and Catawba ice condensers will perform their intended safety function under credible circumstances.

The changes proposed in this LAR do not make any physical alteration to the ice condensers, nor does it affect the required functional capability of the ice condenser in any way. The intent of the proposed change to the UFSARs is to eliminate an overly restrictive waiting period prior to Unit ascent to power operations following the completion of ice basket replenishment. The required inspection of the ice condenser following a seismic event greater than or equal to an OBE will confirm that the ice condenser lower inlet doors will continue to fully perform their safety function as assumed in the McGuire and Catawba safety analyses.

Thus, it can be concluded that the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. 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.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the person(s) may file a request for a hearing with respect to issuance of the amendment to

the subject facility operating license and any person(s) whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request via electronic submission through the NRC E-filing system for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2.

Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestors/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise

statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.

Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the

participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system.

The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737. Participants

who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by:

(1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their submissions.

For further details with respect to this license amendment application, see the application for amendment dated February 15, 2008, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor),

Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <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 PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 20th day of February 2008.

For the Nuclear Regulatory Commission.

John F. Stang,

Project Manager, Plant Licensing Branch II-1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E8-3588 Filed 2-25-08; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-424 and 50-425]

Vogtle Electric Generating Plant, Units 1 and 2; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards; Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission, or the NRC) is considering issuance of an amendment to Facility Operating License Nos. NPF-68 and NPF-81 to Southern Nuclear Operating Company, Inc. (the licensee) for operation of the Vogtle Electric Generating Plant, Units 1 and 2 (Vogtle 1 and 2), which are located in Burke County, Georgia.

The proposed amendments in the licensee's application dated February 13, 2008, propose a one-time steam generator (SG) tubing eddy current inspection interval revision to the Vogtle Electric Generating Plant, Units 1 and 2 (Vogtle 1 and 2) Technical Specifications (TSs) 5.5.9, "Steam Generator (SG) Program," to incorporate an interim alternate repair criterion (ARC) in the provisions for SG tube repair criteria during the Vogtle 1 inspection performed in refueling outage 14 and subsequent operating cycle, and during the Vogtle 2 inspection performed in refueling outage 13 and subsequent 18-month SG tubing eddy current inspection interval and subsequent 36-month SG tubing eddy current inspection interval. These amendments request approval of an

interim ARC that requires full-length inspection of the tubes within the tubesheet but does not require plugging tubes if any axial or circumferential cracking observed in the region greater than 17 inches below the top of the tubesheet (TTS) is less than a value sufficient to permit the remaining circumferential ligament to transmit the limiting axial loads. These amendments are required to preclude unnecessary plugging while still maintaining structural and leakage integrity. These amendments also revise TS 5.6.10, "Steam Generator Tube Inspection Report," where three new reporting requirements are proposed to be added to the existing seven requirements. For TS 5.5.9, the amendments would replace the existing ARC in TS 5.5.9.c.1 for SG tube inspections that were approved in Amendment Nos. 146 and 126 issued September 12, 2006, for refueling outage 13 and the subsequent operating cycle for Vogtle 1, and for refueling outage 12 and the subsequent operating cycle for Vogtle 2.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Of the various accidents previously evaluated, the proposed changes only affect the steam generator tube rupture (SGTR) event evaluation and the postulated steam line break (SLB), locked rotor and control rod ejection accident evaluations. Loss-of-coolant accident (LOCA) conditions cause a compressive axial load to act on the tube. Therefore, since the LOCA tends to force the tube into the tubesheet rather than pull it out, it is not a factor in this licensing amendment

request. Another faulted load consideration is a safe shutdown earthquake (SSE); however, the seismic analysis of Model F steam generators has shown that axial loading of the tubes is negligible during an SSE.

At normal operating pressures, leakage from primary water stress corrosion cracking (PWSCC) below 17 inches from the top of the tubesheet is limited by both the tube-to-tubesheet crevice and the limited crack opening permitted by the tubesheet constraint. Consequently, negligible normal operating leakage is expected from cracks within the tubesheet region.

For the Unit 1 SGTR event, the required structural margins of the steam generator tubes is maintained by limiting the allowable ligament size for a circumferential crack to remain in service to 214 degrees below 17 inches from the top of the tubesheet. For the Unit 2 SGTR event, the required structural margins of the steam generator tubes is maintained by limiting the allowable ligament size for a circumferential crack to remain in service to 214 degrees below 17 inches from the top of the tubesheet for the 18-month SG tubing eddy current inspection interval and to remain in service 183 degrees below 17 inches from the top of the tubesheet for the 36-month SG tubing eddy current inspection interval. Tube rupture is precluded for cracks in the hydraulic expansion region due to the constraint provided by the tubesheet. The potential for tube pullout is mitigated by limiting the Unit 1 allowable crack size to 214 degrees and limiting the Unit 2 allowable crack size to 214 degrees for the 18-month SG tubing eddy current inspection interval and to 183 degrees for the 36-month SG tubing eddy current inspection interval. These allowable crack sizes take into account eddy current uncertainty and crack growth rate. It has been shown that a Unit 1 circumferential crack with an azimuthal extent of 214 degrees and a Unit 2 circumferential crack with an azimuthal extent of 214 degrees for the 18-month SG tubing eddy current inspection interval and an azimuthal extent of 183 degrees for the 36-month SG tubing eddy current inspection interval meet the performance criteria of NEI 97-06, Rev. 2, "Steam Generator Program Guidelines" and the Regulatory Guide (RG) 1.121, "Bases for Plugging Degraded PWR Steam Generator Tubes." Likewise, a best effort visual inspection will be conducted to confirm that a Unit 1 circumferential crack of greater than 294 degrees and that a Unit 2 circumferential crack of greater than 294 degrees for the 18-month SG tubing eddy current inspection interval and a circumferential crack of greater than 263 degrees for the 36-month SG tubing eddy current inspection interval do not remain in service in the tube end weld metal in any tube mitigating the potential for tube pullout. Therefore, the margin against tube burst/pullout is maintained during normal and postulated accident conditions and the proposed change does not result in a significant increase in the probability or consequence of a SGTR.

The probability of a SLB is unaffected by the potential failure of a SG tube as the failure of a tube is not an initiator for a SLB

event. SLB leakage is limited by leakage flow restrictions resulting from the leakage path above potential cracks through the tube-to-tubesheet crevice. The leak rate during postulated accident conditions (including locked rotor and control rod ejection) has been shown to remain within the accident analysis assumptions for all axial or circumferentially oriented cracks occurring 17 inches below the top of the tubesheet. Since normal operating leakage is limited to 150 gpd (approximately 0.10 gpm), the attendant accident condition leak rate, assuming all leakage to be from indications below 17 inches from the top of the tubesheet, would be bounded by 0.35 gpm. This value is within the accident analysis assumptions for the limiting design basis accident for VEGP, which is the postulated SLB event.

Based on the above, the performance criteria of NEI-97-06, Rev. 2 and draft Regulatory Guide (RG) 1.121 continue to be met and the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed change create the possibility of a new or different accident from any accident previously evaluated?

Response: No.

The proposed change does not introduce any changes or mechanisms that create the possibility of a new or different kind of accident. Tube bundle integrity is expected to be maintained for all plant conditions upon implementation of the interim alternate repair criterion. The proposed change does not introduce any new equipment or any change to existing equipment. No new effects on existing equipment are created nor are any new malfunctions introduced.

Therefore, based on the above evaluation, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change maintains the required structural margins of the steam generator tubes for both normal and accident conditions. NEI 97-06, Rev. 2 and RG 1.121 are used as the basis in the development of the limited tubesheet inspection depth methodology for determining that steam generator tube integrity considerations are maintained within acceptable limits. RG 1.121 describes a method acceptable to the NRC staff for meeting General Design Criteria 14, 15, 31, and 32 by reducing the probability and consequences of an SGTR. RG 1.121 concludes that by determining the limiting safe conditions of tube wall degradation beyond which tubes with unacceptable cracking, as established by in-service inspection, should be removed from service or repaired, the probability and consequences of a SGTR are reduced. This RG uses safety factors on loads for tube burst that are consistent with the requirements of Section III of the ASME Code.

For axially oriented cracking located within the tubesheet, tube burst is precluded due to the presence of the tubesheet. For

circumferentially oriented cracking in a tube or the tube-to-tubesheet weld, Reference 3 defines a length of remaining tube ligament that provides the necessary resistance to tube pullout due to the pressure induced forces (with applicable safety factors applied). Additionally, it is shown that application of the limited tubesheet inspection depth criteria will not result in unacceptable primary-to-secondary leakage during all plant conditions.

Based on the above, it is concluded that the proposed changes do not result in any reduction of margin with respect to plant safety as defined in the Updated Safety Analysis Report or bases of the plant Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two

White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. 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.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the person(s) may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person(s) whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request via electronic submission through the NRC E-filing system for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's (Rules of Practice for Domestic Licensing Proceedings (in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: 1) the name, address and telephone number of the requestor or petitioner; 2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; 3) the nature and extent of

the requestor's/petitioner's property, financial, or other interest in the proceeding; and 4) the possible effect of any decision or order which may be entered in the proceeding on the requestors/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated on August 28, 2007 (72 FR 49139). The E-Filing

process requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

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Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or

their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737. Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in

their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their submissions.

For further details with respect to this license amendment application, see the letter dated February 13, 2008, from the Southern Nuclear Operating Company, Inc., which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <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 PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 19th day of February 2008.

For the Nuclear Regulatory Commission,
Siva P. Lingam,
Project Manager, Plant Licensing Branch II-1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.
 [FR Doc. E8-3581 Filed 2-25-08; 8:45 am]
BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-188]

Kansas State University Triga Mark II Nuclear Reactor; Notice of Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a renewed Facility License No. R-88, to be held by Kansas State University (the licensee), which would authorize continued operation of the Kansas State University TRIGA Mark II nuclear reactor (KSU TRIGA), located in Manhattan, Riley County, Kansas. Therefore, pursuant to 10 CFR 51.21, the NRC is issuing this Environmental Assessment and Finding of No Significant Impact.

Description of Proposed Action

The proposed action would renew Facility License No. R-88 for a period of twenty years from the date of

issuance of the renewed license, and would increase the licensed maximum steady-state power level to 1.25 megawatts thermal power (MW(t)) and the maximum pulse reactivity insertion. The proposed action is in accordance with the licensee's application dated September 12, 2002, as supplemented on November 11, and November 13, 2002; December 21, 2004; July 6, and September 27, 2005; March 20, March 30, June 28, and September 28, 2006; May 17, June 4, September 12, and October 11, 2007; and February 6, 2008. In accordance with 10 CFR 2.109, the license remains in effect until the NRC takes final action on the renewal application.

The KSU TRIGA is located in the north wing of Ward Hall in the northwest sector of the University campus near the center of the city of Manhattan, Kansas. The reactor is housed in the reactor bay, a reinforced concrete and structural steel building which serves as a confinement. The KSU TRIGA site comprises the entire building and the fenced areas immediately surrounding the building. There are no nearby industrial, transportation, or military facilities that could pose a threat to the KSU TRIGA.

The KSU TRIGA is a pool-type, light water moderated and cooled research reactor currently licensed to operate at a steady-state power level of 250 kilowatts thermal power (kW(t)). The reactor is licensed to operate in a pulse mode, with a maximum pulse thermal power of 250 MW(t). A detailed description of the reactor can be found in the KSU TRIGA Safety Analysis Report (SAR).

As part of the proposed action the licensee has requested an increase in the licensed maximum steady-state power level, an increase in the maximum reactivity insertion and authorization to install an additional control rod to support operation at the increased power level. The proposed action will not significantly increase the probability of accidents. The proposed action may increase the consequences of accidents, but will not result in doses in excess of the limits specified by 10 CFR Part 20. No changes are being made in the types of effluents that may be released off site. There should be no significant increase in routine occupational or public radiation exposure. Therefore, the proposed action should not significantly change the environmental impact of facility operation.

Summary of the Environmental Assessment

The NRC staff reviewed the licensee's application which included an

Environmental Report. To document its review, the NRC staff has prepared an environmental assessment (EA) which discusses the KSU TRIGA site and facility; radiological impacts of gaseous, liquid, and solid effluents; environmental and personnel radiation monitoring; radiation dose estimates for the maximum hypothetical accident (MHA); impacts of the "no action" alternative to the proposed action; alternative use of resources; considerations related to the National Environmental Policy Act (NEPA); and presents the radiological and non-radiological environmental impacts of the proposed action.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated September 12, 2002 (ML022620007, ML022620011, ML022620643, ML022630012, ML022630054, ML022630077), as supplemented on November 11, 2002 (ML023190241); November 13, 2002 (ML023190219); December 21, 2004 (ML052580517); July 6, 2005 (ML051960517, ML051960520, ML051960521, ML051960522, ML052580519, ML052590053); September 27, 2005 (ML052760292); March 20, 2006 (ML061640472); March 30, 2006 (ML061010264); June 28, 2006 (ML070660601); September 28, 2006 (ML063070520); May 17, 2007 (ML071430200); June 4, 2007 (ML071630328); September 12, 2007 (ML072680471); October 11, 2007 (ML072970624) and February 6, 2008 (ML080500366). Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. The EA can be found in ADAMS under Accession Number ML063190172. 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 at 1-800-397-4209, or 301-415-4737, or send an e-mail to pdrc@nrc.gov.

Dated at Rockville, Maryland, this 20th day of February, 2008.

For the Nuclear Regulatory Commission.

Daniel S. Collins,

Chief, Research and Test Reactors Branch A, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. E8-3598 Filed 2-25-08; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Extension, Without Change, of a Currently Approved Information Collection: RI 20-64, RI 20-64A and RI 20-64B

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for extension, without change, of a currently approved information collection. RI 20-64, Letter Reply to Request for Information, is used by the Civil Service Retirement System to provide information about the amount of annuity payable after a survivor reduction, to explain the annuity reductions required to pay for the survivor benefit, and to give the beginning rate of survivor annuity. RI 20-64A, Former Spouse Survivor Annuity Election, is used by the Civil Service Retirement System to obtain a survivor benefits election from annuitants who are eligible to elect to provide survivor benefits for a former spouse. RI 20-64B, Information on Electing a Survivor Annuity for Your Former Spouse, is a pamphlet that provides important information to retirees under the Civil Service Retirement System who want to provide a survivor annuity for a former spouse.

Comments are particularly invited on: whether this information is necessary for the proper performance of functions of OPM, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

We estimate that 30 survivor elections on RI 20-64A will be processed per year and that of these eight will use RI 20-64 to ask for information about electing a smaller survivor benefit. Form RI 20-64A requires 45 minutes to complete for a burden of 23 hours. Form RI 20-64 requires eight minutes to complete for a burden of one hour. The total burden is 24 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606-8358, Fax (202) 418-3251 or via E-mail to MaryBeth.Smith-Toomey@opm.gov. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to Ronald W. Melton, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415-3500.

For Information Regarding Administrative Coordination—Contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, (202) 606-0623.

U.S. Office of Personnel Management
Howard Weizmann,
Deputy Director.

[FR Doc. E8-3539 Filed 2-25-08; 8:45 am]

BILLING CODE 6325-38-P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Extension of a Currently Approved Collection: RI 38-45

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for extension of a currently approved collection. RI 38-45, We Need the Social Security Number of the Person Named Below, is used by the Civil Service Retirement System and the Federal Employees Retirement System to identify the records of individuals with similar or the same names. It is also needed to report payments to the Internal Revenue Service.

Comments are particularly invited on: whether this collection of information is

necessary for the proper performance of functions of OPM, and whether it will have practical utility; whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

Approximately 3,000 RI 38-45 forms are completed annually. Each form requires approximately 5 minutes to complete. The annual estimated burden is 250 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606-8358, Fax (202) 418-3251 or via e-mail to MaryBeth.Smith-Toomey@opm.gov. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to Ronald W. Melton, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415-3500.

For Information Regarding Administrative Coordination Contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, (202) 606-0623.

Howard Weizmann,

Deputy Director, U.S. Office of Personnel Management.

[FR Doc. E8-3540 Filed 2-25-08; 8:45 am]

BILLING CODE 6325-38-P

**OFFICE OF PERSONNEL
MANAGEMENT**

**Proposed Collection; Comment
Request for Extension, Without
Change, of a Currently Approved
Information Collection: RI 38-47**

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for extension, without change, of a currently approved information collection. RI 38-47, Information and Instructions on Your

Reconsideration Rights outlines the procedures required to request reconsideration of an initial OPM decision about Civil Service or Federal Employees retirement, Federal or Retired Federal Employees Health Benefits requests to enroll or change enrollment, or Federal Employees' Group Life Insurance coverage. This form lists the procedures and time periods required for requesting reconsideration.

Comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606-8358, Fax (202) 418-3251 or via e-mail to MaryBeth.Smith-Toomey@opm.gov. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to Ronald W. Melton, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415-3500.

For Information Regarding Administrative Coordination Contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, (202) 606-0623.

Howard Weizmann,

Deputy Director, U.S. Office of Personnel Management.

[FR Doc. E8-3541 Filed 2-25-08; 8:45 am]

BILLING CODE 6325-38-P

**SECURITIES AND EXCHANGE
COMMISSION**

[Investment Company Act Release No. 28165; 812-13447]

**Triangle Capital Corporation; Notice of
Application**

February 20, 2008.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 23(a), 23(b) and 63 of the Act, and under sections 57(a)(4) and 57(i) of the Act and rule 17d-1 under the Act authorizing certain joint transactions otherwise prohibited by section 57(a)(4) of the Act.

Summary of the Application: Triangle Capital Corporation ("Triangle") requests an order to permit it to issue restricted shares of its common stock under the terms of its employee and director compensation plan.

Filing Dates: The application was filed on October 31, 2007, and amended on February 20, 2008.

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 Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 17, 2008, and should be accompanied by proof of service on applicant, 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 who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. Triangle, c/o Garland S. Tucker III, Triangle Capital Corporation, 3600 Glenwood Avenue, Suite 104, Raleigh, NC 27612.

FOR FURTHER INFORMATION CONTACT: John Yoder, Senior Counsel, at (202) 551-6878, or Janet M. Grossnickle, Branch Chief, at (202) 551-6821, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Desk, 100 F Street, NE., Washington, DC 20549-1520 (tel. 202-551-5850).

Applicant's Representations

1. Triangle, a Maryland corporation, is an internally managed, non-diversified, closed-end investment company that has elected to be regulated as a business development company ("BDC") under

the Act.¹ Triangle is a specialty finance company that provides customized financing solutions to companies with annual revenues between \$10 million and \$100 million. Shares of Triangle's common stock are traded on The NASDAQ Global Market under the symbol "TCAP." Triangle's initial public offering was completed on February 21, 2007. As of December 31, 2007, there were 6,803,863 shares of Triangle's common stock outstanding and Triangle had eleven employees, including the employees of its wholly-owned consolidated subsidiaries.

2. Triangle currently has an eight member board of directors ("Board") of whom three are "interested persons" of Triangle within the meaning of section 2(a)(19) of the Act and five are non-interested persons ("Non-interested Directors"). Triangle has five directors who are not officers or employees of Triangle (the "Non-employee Directors").

3. Triangle believes that its successful performance depends on its ability to offer compensation packages to its professionals that are competitive with those offered by its competitors and other investment management businesses. Triangle believes its ability to offer compensation plans providing for the periodic issuance of shares of restricted stock (*i.e.*, stock that, at the time of issuance, is subject to certain forfeiture restrictions, and thus is restricted as to its transferability until such forfeiture restrictions have lapsed) (the "Restricted Stock") is vital to its future growth and success. Effective February 13, 2007, Triangle adopted the 2007 Equity Incentive Plan. Triangle proposes to amend and restate the 2007 Equity Incentive Plan ("Amended and Restated Plan") to permit the issuance of shares of Restricted Stock to its Non-employee Directors, employees and employees of its wholly-owned consolidated subsidiaries (collectively, the "Participants" and each, a "Participant").

4. The Amended and Restated Plan will authorize the issuance of shares of Restricted Stock subject to certain forfeiture restrictions. These restrictions may relate to continued employment or service on the Board, as the case may be (lapsing either on an annual or other periodic basis or on a "cliff" basis, *i.e.*, at the end of a stated period of time), or other restrictions deemed by the Board

to be appropriate. The Restricted Stock will not be transferable except for disposition by gift, will or intestacy. Except to the extent restricted under the terms of the Amended and Restated Plan, a Participant granted Restricted Stock will have all the rights of any other shareholder, including the right to vote the Restricted Stock and the right to receive dividends. During the restriction period, the Restricted Stock generally may not be sold, transferred, pledged, hypothecated, margined, or otherwise encumbered by the Participant. Except as the Board otherwise determines, upon termination of a Participant's employment or service on the Board during the applicable restriction period, Restricted Stock for which forfeiture restrictions have not lapsed at the time of such termination shall be forfeited.

5. The maximum amount of Restricted Stock that may be issued under the Amended and Restated Plan will be 10% of the outstanding shares of Triangle's common stock on the effective date of the Amended and Restated Plan plus 10% of the outstanding number of shares of Triangle's common stock issued or delivered by Triangle (other than pursuant to compensation plans) during the term of the Amended and Restated Plan.² The Amended and Restated Plan limits the total number of shares that may be awarded to any single Participant in a single year to 100,000 shares. In addition, no Participant may be granted more than 25% of the shares of common stock reserved for issuance under the Amended and Restated Plan. The Amended and Restated Plan will be administered by the Board, which will award shares of Restricted Stock to the Participants (except for Non-employee Directors) from time to time as part of the Participants' compensation based on a Participant's actual or expected performance and value to Triangle.

6. Under the Amended and Restated Plan, Triangle's Non-Employee Directors will each receive a grant of \$30,000 worth of shares of Restricted Stock at the beginning of each one-year term of service on the Board, for which forfeiture restrictions would lapse one year from the grant date. The Amended and Restated Plan will be administered by the Board, and the grants of Restricted Stock under the Amended and Restated Plan to Non-employee

Directors will be automatic and will not be changed without Commission approval.

7. The Amended and Restated Plan will be submitted for approval to Triangle's shareholders, and will become effective upon such approval, subject to the issuance of the requested order.

Applicant's Legal Analysis

Sections 23(a) and (b), Section 63

1. Under section 63 of the Act, the provisions of section 23(a) of the Act generally prohibiting a registered closed-end investment company from issuing securities for services or for property other than cash or securities are made applicable to BDCs. This provision would prohibit the issuance of Restricted Stock as a part of the Amended and Restated Plan.

2. Section 23(b) generally prohibits a closed-end management investment company from selling its common stock at a price below its current net asset value ("NAV"). Section 63(2) makes section 23(b) applicable to BDCs unless certain conditions are met. Because Restricted Stock that would be granted under the Amended and Restated Plan would not meet the terms of section 63(2), sections 23(b) and 63 would prevent the issuance of the Restricted Stock.

3. Section 6(c) provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes thereof, from any provision of the Act, if and to the extent that the 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 Act.

4. Triangle requests an order pursuant to section 6(c) of the Act granting an exemption from the provisions of sections 23(a) and (b) and section 63 of the Act. Triangle states that the concerns underlying those sections include: (i) Preferential treatment of investment company insiders and the use of options and other rights by insiders to obtain control of the investment company; (ii) complication of the investment company's structure that makes it difficult to determine the value of the company's shares; and (iii) dilution of shareholders' equity in the investment company. Triangle states that the Amended and Restated Plan does not raise the concern about preferential treatment of Triangle's insiders because the Amended and Restated Plan is a bona fide

¹ Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

² For purposes of calculating compliance with this limit, Triangle will count as Restricted Stock all shares of Triangle's common stock that are issued pursuant to the Amended and Restated Plan less any shares that are forfeited back to Triangle and cancelled as a result of forfeiture restrictions not lapsing.

compensation plan of the type that is common among corporations generally. In addition, section 61(a)(3)(B) of the Act permits a BDC to issue to its officers, directors and employees, pursuant to an executive compensation plan, warrants, options and rights to purchase the BDC's voting securities, subject to certain requirements. Triangle states that, for reasons that are unclear, section 61 and its legislative history do not address the issuance by a BDC of restricted stock as incentive compensation. Triangle states, however, that the issuance of Restricted Stock is substantially similar, for purposes of investor protection under the Act, to the issuance of warrants, options, and rights as contemplated by section 61. Triangle also asserts that the Amended and Restated Plan would not become a means for insiders to obtain control of Triangle because the maximum number of Triangle's voting securities that may be issued pursuant to the Amended and Restated Plan will be limited as set forth in the application. Triangle's current intention is to issue only shares of Restricted Stock as incentive compensation; however, if Triangle issues stock options in the future, it will do so pursuant to section 61 and in compliance with the terms and conditions of the application. Moreover, no individual Participant could be issued more than 25% of the shares reserved for issuance under the Amended and Restated Plan.

5. Triangle further states that the Amended and Restated Plan will not unduly complicate Triangle's structure because equity-based employee compensation arrangements are widely used among corporations and commonly known to investors. Triangle notes that the Amended and Restated Plan will be submitted to its shareholders. Triangle represents that a concise, "plain English" description of the Amended and Restated Plan, including its potential dilutive effect, will be provided in the proxy materials that will be submitted to Triangle's shareholders. Triangle also states that it will comply with the proxy disclosure requirements in Item 10 of Schedule 14A under the Securities Exchange Act of 1934. Triangle further notes that the Amended and Restated Plan will be disclosed to investors in accordance with the requirements of the Form N-2 registration statement for closed-end investment companies, and pursuant to the standards and guidelines adopted by the Financial Accounting Standards Board for operating companies. In addition, Triangle will comply with the disclosure requirements for executive

compensation plans applicable to operating companies under the Exchange Act.³ Triangle thus concludes that the Amended and Restated Plan will be adequately disclosed to investors and appropriately reflected in the market value of Triangle's shares.

6. Triangle acknowledges that, while awards granted under the Amended and Restated Plan would have a dilutive effect on the shareholders' equity in Triangle, that effect would be outweighed by the anticipated benefits of the Amended and Restated Plan to Triangle and its shareholders. Triangle asserts that it needs the flexibility to provide the requested equity-based employee compensation in order to be able to compete effectively with other financial services firms for talented professionals. These professionals, Triangle suggests, in turn are likely to increase Triangle's performance and shareholder value. Triangle also asserts that equity-based compensation would more closely align the interests of Triangle's employees with those of Triangle's shareholders. Triangle believes that the granting of shares of Restricted Stock to Non-employee Directors under the Amended and Restated Plan is fair and reasonable because of the skills and experience that such directors provide to Triangle. Such skills and experience are necessary for the management and oversight of Triangle's investments and operations. Triangle believes that granting the shares of Restricted Stock will provide significant incentives for Non-employee Directors to remain on the Board and to devote their best efforts to the success of Triangle's business in the future. The issuance of shares of Restricted Stock will also provide a means for Triangle's Non-employee Directors to increase their ownership interest in Triangle, thereby helping to ensure a close identification of their interests with those of Triangle and its shareholders. In addition, Triangle states that Triangle's shareholders will be further protected by the conditions to the requested order that assure continuing oversight of the operation of the Amended and Restated Plan by Triangle's Board.

³ In addition, Triangle will comply with the amendments to the disclosure requirements for executive and director compensation, related party transactions, director independence and other corporate governance matters, and security ownership of officers and directors to the extent adopted and applicable to BDCs. See Executive Compensation and Related Party Disclosure, Release No. 34-53185 (Jan. 27, 2006).

Section 57(a)(4), Rule 17d-1

7. Section 57(a) proscribes certain transactions between a BDC and persons related to the BDC in the manner described in section 57(b) ("57(b) persons"), absent a Commission order. Section 57(a)(4) generally prohibits a 57(b) person from effecting a transaction in which the BDC is a joint participant absent such an order. Rule 17d-1, made applicable to BDCs by section 57(i), proscribes participation in a "joint enterprise or other joint arrangement or profit-sharing plan," which includes a stock option or purchase plan. Employees and directors of a BDC are 57(b) persons. Thus, the issuance of shares of Restricted Stock could be deemed to involve a joint transaction involving a BDC and a 57(b) person in contravention of section 57(a)(4). Rule 17d-1(b) provides that, in considering relief pursuant to the rule, the Commission will consider (i) whether the participation of the company in a joint enterprise is consistent with the Act's policies and purposes and (ii) the extent to which that participation is on a basis different from or less advantageous than that of other participants.

8. Triangle requests an order pursuant to section 57(a)(4) and rule 17d-1 to permit the Amended and Restated Plan. Triangle states that the Amended and Restated Plan, although benefiting the Participants and Triangle in different ways, are in the interests of Triangle's shareholders because the Amended and Restated Plan will help Triangle attract and retain talented professionals, help align the interests of Triangle's employees with those of its shareholders, and in turn help produce a better return to Triangle's shareholders. Thus, Triangle asserts that the Amended and Restated Plan is consistent with the policies and purposes of the Act.

Applicant's Conditions

Triangle agrees that the order granting the requested relief will be subject to the following conditions:

1. The Amended and Restated Plan will be approved by Triangle's shareholders in accordance with section 61(a)(3)(A)(iv) of the 1940 Act.
2. Each issuance of Restricted Stock to officers and employees will be approved by the required majority, as defined in section 57(o) of the Act, of Triangle's directors on the basis that such issuance is in the best interests of Triangle and its shareholders.
3. The amount of voting securities that would result from the exercise of all of Triangle's outstanding warrants,

options, and rights, together with any Restricted Stock issued pursuant to the Amended and Restated Plan, at the time of issuance shall not exceed 25% of the outstanding voting securities of Triangle, except that if the amount of voting securities that would result from the exercise of all of Triangle's outstanding warrants, options, and rights issued to Triangle's directors, officers, and employees, together with any Restricted Stock issued pursuant to the Amended and Restated Plan, would exceed 15% of the outstanding voting securities of Triangle, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights, together with any Restricted Stock issued pursuant to the Amended and Restated Plan, at the time of issuance shall not exceed 20% of the outstanding voting securities of Triangle.

4. The maximum amount of Restricted Stock that may be issued under the Amended and Restated Plan will be 10% of the outstanding shares of common stock of Triangle on the effective date of the Amended and Restated Plan plus 10% of the number of shares of Triangle's common stock issued or delivered by Triangle (other than pursuant to compensation plans) during the term of the Amended and Restated Plan.

5. The Board will review periodically the potential impact that the issuance of Restricted Stock under the Amended and Restated Plan could have on Triangle's earnings and NAV per share, such review to take place prior to any decisions to grant Restricted Stock under the Amended and Restated Plan, but in no event less frequently than annually. Adequate procedures and records will be maintained to permit such review. The Board will be authorized to take appropriate steps to ensure that the grant of Restricted Stock under the Amended and Restated Plan would not have an effect contrary to the interests of Triangle's shareholders. This authority will include the authority to prevent or limit the granting of additional Restricted Stock under the Amended and Restated Plan. All records maintained pursuant to this condition will be subject to examination by the Commission and its staff.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E8-3555 Filed 2-25-08; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-8897; 34-57364; File No. 265-24]

Advisory Committee on Improvements to Financial Reporting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Meeting of SEC Advisory Committee on Improvements to Financial Reporting.

SUMMARY: The Securities and Exchange Commission Advisory Committee on Improvements to Financial Reporting is providing notice that it will hold a public meeting on Thursday, March 13, and Friday, March 14, 2008, at University of California—San Francisco, Laurel Heights Conference Center, Sublevel 1 Auditorium, 3333 California Street, San Francisco, California 94118. The meeting will begin at 3 p.m. on Thursday, March 13, and at 8 a.m. on Friday, March 14. The meeting will be open to the public. The meeting will be webcast on the Commission's Web site at <http://www.sec.gov>. Persons needing special accommodations to take part because of a disability should notify a contact person listed below. The public is invited to submit written statements for the meeting.

The agenda for the Thursday, March 13 meeting includes hearing oral testimony from panel participants regarding the Advisory Committee's developed proposals related to materiality, restatements, and professional judgment. The agenda for the Friday, March 14 meeting includes (1) hearing oral testimony from panel participants regarding the Advisory Committee's developed proposal related to the implementation of XBRL, and (2) consideration of comment letters received by the Advisory Committee, consideration of updates from subcommittees of the Advisory Committee, and discussion of next steps and planning for the next meeting.

DATES: Written statements should be received on or before March 6, 2008.

ADDRESSES: Written statements may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet submission form (<http://www.sec.gov/rules/other.shtml>); or
- Send an e-mail message to rule-comments@sec.gov. Please include File Number 265-24 on the subject line.

Paper Comments

- Send paper statements in triplicate to Nancy M. Morris, Federal Advisory Committee Management Officer, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. 265-24. This file number should be included on the subject line if e-mail is used. To help us process and review your statements more efficiently, please use only one method. The Commission staff will post all statements on the Advisory Committee's Web site (<http://www.sec.gov/about/offices/oca/acifr.shtml>). Statements also will be available for public 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. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT:

James L. Kroeker, Deputy Chief Accountant, or Shelly C. Luisi, Senior Associate Chief Accountant, at (202) 551-5300, Office of the Chief Accountant, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-6561.

SUPPLEMENTARY INFORMATION: In accordance with Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, § 10(a), James L. Kroeker, Designated Federal Officer of the Committee, has approved publication of this notice.

Dated: February 21, 2008.

Nancy M. Morris,

Committee Management Officer.

[FR Doc. E8-3568 Filed 2-25-08; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

In the Matter of: TelcoBlue, Inc.; Order of Suspension of Trading

February 22, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of TelcoBlue, Inc. ("TelcoBlue") because TelcoBlue has failed to file its last six required periodic reports.

The Commission is of the opinion that the public interest and the protection of

investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EST on February 22, 2008 through 11:59 p.m. EST on March 6, 2008.

By the Commission.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 08-861 Filed 2-22-08; 10:44 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57356; File No. SR-Amex-2007-115]

Self-Regulatory Organizations; American Stock Exchange, LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, To List and Trade Shares of the SPDR® Barclays Capital Global Inflation Linked Exchange-Traded Fund

February 20, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 29, 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 and II below, which Items have been substantially prepared by the Exchange. On January 4, 2008, the Exchange filed Amendment No. 1 to the proposed rule change. On January 30, 2008, the Exchange filed Amendment No. 2 to the proposed rule change. This order provides notice of the proposed rule change, as amended, and approves the proposed rule change, as modified by Amendment Nos. 1 and 2 thereto, on an accelerated basis.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares (“Shares”) of the SPDR® Barclays Capital Global Inflation Linked Exchange-Traded Fund (“Fund”).³ The

text of the proposed rule change is available at the Exchange’s principal office, the Commission’s Public Reference Room, and <http://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 Exchange included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade Shares of the Fund pursuant to Amex Rule 1000A–AEMI and Amex Rules 1001A through 1005A, which provide listing standards for Index Fund Shares.⁴ The Shares represent an interest in the investment portfolio of the Fund and are registered under the Act. The Fund’s investment objective is to provide investment results that, before fees and expenses, correspond generally to the price and yield performance of the World Government TIPS Index, an index that tracks the inflation-protected sector of the global bond market. The Fund employs an indexing approach seeking to substantially replicate, before fees and expenses, the price and yield performance of the Barclays World Government Inflation-Linked Bond Index (“Index”).⁵ The Index measures the performance of the major government inflation-linked bond markets and is constructed from a selection of country/currency indices based on rating and size. The Index is

⁴ An Index Fund Share is a security that is issued by an open-end management investment company based on a portfolio of stocks or fixed-income securities or a combination thereof that seeks to provide investment results that correspond generally to the price and yield performance or total return performance of a specified foreign or domestic stock index, fixed-income securities index, or combination thereof. See Amex Rule 1000A–AEMI(b)(1).

⁵ Barclays Capital, which created and manages the Index, is the investment banking division of Barclays Bank PLC, which is regulated by the Financial Services Authority of the United Kingdom.

designed to include only those markets in which a global government linker⁶ fund is likely to invest and includes the following ten countries: United Kingdom, Australia, Canada, Sweden, United States, France, Italy, Japan, Germany, and Greece.

The Exchange represents that the Fund does not satisfy the generic listing standards in Commentary .03(a)(5) to Amex Rule 1000A–AEMI, which requires that the underlying index or portfolio (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers.⁷ Currently, the Index only includes ten non-affiliated issuers. Except for Commentary .03(a)(5) to Amex Rule 1000A–AEMI, Amex states that the Shares currently satisfy all applicable generic listing standards for Index Fund Shares based on Fixed Income Securities.⁸ The Exchange further represents that the continued listing standards for Index Fund Shares under Amex Rule 1002A(b) are applicable to the Shares.⁹ The issuer of the Shares, the Trust, is required to comply with Rule 10A–3 under the Act¹⁰ for the initial and continued listing of the Shares.

The Exchange states that detailed descriptions of the Fund, the Index (including the methodology used to determine the composition of the Index), investment objective, management, and structure of the Fund, procedures and payment requirements for creating and redeeming Shares, transaction fees and expenses, dividends, distributions, taxes, reports

⁶ A linker is an inflation-linked bond.

⁷ The generic listing requirements under Commentary .03 to Amex Rule 1000A–AEMI permit the listing and trading of Index Fund Shares pursuant to Rule 19b-4(e) under the Act (17 CFR 240.19b-4(e)). Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (“SRO”) shall not be deemed a proposed rule change, pursuant to Rule 19b-4(c)(1), if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO’s trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class.

⁸ Fixed Income Securities are debt securities that are notes, bonds, debentures, or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities, government-sponsored entity securities, municipal securities, trust preferred securities, supranational debt, and debt of a foreign country or a subdivision thereof. See Commentary .03 to Amex Rule 1000A–AEMI.

⁹ Pursuant to Amex Rule 1002A(a)(i), the Exchange has established a minimum of 200,000 Shares to be outstanding at the start of trading. The Exchange believes that the proposed minimum number of Shares outstanding at the start of trading is sufficient to provide market liquidity and is comparable to requirements that have been applied to previously listed series of Index Fund Shares.

¹⁰ 17 CFR 240.10A-3.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Fund is a series of the SPDR® Series Trust (formerly streetTRACKS Series Trust, the “Trust”), an investment company registered under the Investment Company Act of 1940 (“1940 Act”).

to be distributed to beneficial owners of the Shares, availability of information regarding the Shares, and calculation and dissemination of key values can be found in the Registration Statement¹¹ and on the Web site for the Fund (<http://www.SPDRETFs.com>), as applicable.

Availability of Information Regarding the Shares and the Index

Quotations and last sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association ("CTA") and the Consolidated Quotation ("CQ") System. Dissemination of the value of the Index will occur at approximately midnight, London time. The Index value is published on the Barclays Capital Web site (<http://www.barcap.com/indices>) and is also available through Bloomberg. In addition, the Exchange will disseminate through the facilities of the CTA at least every 15 seconds throughout the trading day, separately from the consolidated tape, a calculation of the estimated net asset value or "NAV" (also known as the Intraday Indicative Value or "IIV") of a Share, as calculated by Interactive Data Corporation, a third party calculator ("IIV Calculator"). The NAV will be calculated once each business day at the close of regular trading on the New York Stock Exchange, LLC ("NYSE"), ordinarily at 4 p.m. Eastern Time ("ET").¹² The Fund's Internet Web site, <http://www.SPDRETFs.com>, is publicly accessible, at no charge, and will contain, among other things, the following information for the Shares: (1) The prior business day's closing NAV; (2) the mid-point of the bid-ask spread at the time that the Fund's NAV is calculated ("Bid-Ask Price") and a calculation of the premium or discount of the Bid-Ask Price in relation to the closing NAV; (3) historical NAV information; (4) Exchange trading volume in the Shares; (5) the day's high and low price; (6) number of Shares outstanding; and (7) month-end and quarter-end performance. The Web site will also contain links to the Prospectus

and Statement of Additional Information filed by the Trust.

Amex will also disseminate, on a daily basis, by means of the CTA and Consolidated Quote High Speed Lines, information with respect to the IIV, recent NAV, number of Shares outstanding, and the estimated and total cash amount required to purchase Creation Units.¹³ In addition, the Exchange will make available on its Web site daily trading volume of the Shares, closing price, NAV, and final dividend amounts to be paid for the Fund.

Trading Rules and Halts

Trading in the Shares will be governed by the Exchange's AEMI rules applicable to exchange-traded funds. When required under Amex Rule 1002A(b)(ii), the Exchange will halt trading in the Shares.¹⁴ The Shares will trade on the Exchange until 4:15 p.m. ET each business day.

Information Circular

Prior to the commencement of trading of the Shares, the Exchange, in an Information Circular to Exchange members and member organizations, will inform members and member organizations of, among other things: (1) The characteristics and risks associated with an investment in the Shares; (2) the procedures for creating and redeeming the Shares; and (3) the timing and frequency of the dissemination of the IIV. The Information Circular will also inform members and member organizations regarding the application of Commentary .03 to Amex Rule 1000A-AEMI and Amex Rule 1002A to the Fund Shares, Prospectus and/or Product Description delivery requirements, any exemptive relief under the 1940 Act, the Securities Act of 1933, or the Act granted by the Commission, and the requirements of Amex Rule 411 (Duty To Know and Approve Customers).¹⁵

Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the

Shares. Specifically, Amex will rely on its existing surveillance procedures governing Index Fund Shares. In addition, the Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁷ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange states that it did not receive any written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Amex-2007-115 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-Amex-2007-115. This file

¹¹ See Registration Statement on Form N-1A, Post-Effective Amendment No. 21, filed by streetTRACKS Series Trust on June 21, 2007 (File Nos. 333-57793 and 811-08839) ("Registration Statement").

¹² Amex represents that if it becomes aware that the NAV is not being disseminated to all market participants at the same time, the Exchange will halt trading in the Shares and will resume trading in the Shares only when the NAV is disseminated to all market participants. E-mail from Jeffrey P. Burns, Vice President and Associate General Counsel, Amex, to Edward Cho, Special Counsel, Division of Trading and Markets, Commission, dated February 19, 2008.

¹³ The Fund issues and redeems its Shares on a continuous basis, at NAV, only in a large specified number of Shares called a "Creation Unit,"¹⁷ principally in-kind for securities included in the Index. See Registration Statement, supra note 11.

¹⁴ See supra note 12.

¹⁵ Under Amex Rule 411, members and member organizations are required in connection with recommending transactions in the Shares to have a reasonable basis to believe that a customer is suitable for the particular investment given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member.

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Amex-2007-115 and should be submitted on or before March 18, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁸ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁹ which requires that the rules of a national securities exchange be designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Although Commentary .03 to Amex Rule 1000A-AEMI permits the Exchange to list and trade Index Fund Shares pursuant to Rule 19b-4(e) under

the Act,²⁰ the Shares do not meet all of the generic listing requirements under Commentary .03 to Amex Rule 1000A-AEMI because the components of the Index do not meet the specific requirements of Commentary .03(a)(5). Commentary .03(a)(5) to Amex Rule 1000A-AEMI requires that, upon the initial listing of any series of Index Fund Shares pursuant to Rule 19b-4(e) under the Act, the underlying index or portfolio (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers. According to the Exchange, the Index currently includes only ten non-affiliated issuers. As such, the Shares cannot be listed and traded pursuant to Rule 19b-4(e) under the Act.

The Commission believes, however, that the listing and trading of the Shares is consistent with the Act. The Commission notes that, based on the Exchange's representations, the Shares otherwise meet all of the other applicable generic listing standards under Commentary .03 to Amex Rule 1000A-AEMI. The Commission further notes that it has previously approved the listing and trading of derivative securities products that did not meet certain quantitative generic listing criteria by only a slight margin.²¹

The Commission also finds that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,²² which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the

maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations and last-sale information for the Shares will be disseminated through the facilities of the CTA and CQ System. The value of the Index will be published on the Barclays Capital Web site at approximately midnight, London time, and the IIV Calculator will calculate, and Amex will disseminate, the IIV at least every 15 seconds through the facilities of the CTA during Amex trading hours. In addition, the NAV will be calculated once each business day at the close of regular trading on NYSE, ordinarily at 4 p.m. ET. Further, the Fund's Web site will disseminate information relating to the NAV and the Bid-Ask Price, trading volume of the Shares, each day's high and low price of the Shares, number of Shares outstanding, and month-end and quarter-end performance. Amex will also disseminate on a daily basis information with respect to the IIV, recent NAV, number of Shares outstanding, and the estimated and total cash amount required to purchase Creation Units. In addition, the Exchange will make available on its Web site daily trading volume of the Shares, closing price, NAV, and final dividend amounts to be paid.

The Commission believes that the proposed rule change is reasonably designed to promote fair disclosure of information that may be necessary to appropriately price the Shares. Under Amex Rule 1002A(a)(ii), the Exchange is required to obtain a representation from the Trust that the NAV per Share will be calculated daily and made available to all market participants at the same time.²³ In addition, the Exchange represents that, if it becomes aware that the NAV is not disseminated to all market participants at the same time, the Exchange will halt trading in the Shares until such time when the NAV is available to all market participants.²⁴

The Commission notes that Barclays Capital must have procedures in place to comply with the requirements of Commentary .03(b)(i) and (iii) to Amex Rule 1000A-AEMI, which relate to "firewalls" and restricted access, use, and dissemination of information concerning changes and adjustments to, and other material non-public information regarding, the Index.

The Commission further believes that the trading rules and procedures to which the Shares would be subject

²⁰ See *supra* note 7.

²¹ See, e.g., Securities Exchange Act Release Nos. 57047 (December 27, 2007), 73 FR 913 (January 4, 2008) (SR-NYSEArca-2007-127) (approving the listing and trading of shares of the iShares MSCI Belgium Index Fund where the component stocks comprising the index narrowly exceeded the maximum concentration limits); 56983 (December 18, 2007), 72 FR 73394 (December 27, 2007) (SR-NYSEArca-2007-128) (approving the listing and trading of shares of the iShares MSCI Japan Small Cap Index Fund where the component stocks comprising the index that individually exceeded the minimum worldwide monthly trading volume of 250,000 shares during each of the last six months accounted, in the aggregate, for 88% of the weight of the index); 55953 (June 25, 2007), 72 FR 36084 (July 2, 2007) (SR-NYSE-2007-46) (approving the listing and trading of shares of the HealthShares™ Orthopedic Repair exchange-traded fund where the component stocks comprising the index that individually exceeded the minimum worldwide monthly trading volume of 250,000 shares during each of the last six months accounted, in the aggregate, for 86.2% of the weight of the index); and 56695 (October 24, 2007), 72 FR 61413 (October 30, 2007) (SR-NYSEArca-2007-111) (approving the listing and trading of shares of the HealthShares™ Ophthalmology exchange-traded fund where the component stocks comprising the index that individually exceeded the minimum worldwide monthly trading volume of 250,000 shares during each of the last six months accounted, in the aggregate, for only 88.2% of the weight of the index).

²² 15 U.S.C. 78k-1(a)(1)(C)(iii).

²³ See *supra* note 12.

²⁴ See *id.*

¹⁸ In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁹ 15 U.S.C. 78f(b)(5).

pursuant to this proposal are consistent with the Act. The Exchange states that the Shares would be subject to Amex's AEMI rules. The Commission also believes that the Exchange's trading halt rules under Amex Rule 1002A(b) are reasonably designed to prevent trading in the Shares when transparency is impaired.

In support of this proposal, the Exchange has made the following representations:

1. The Exchange will rely on its existing surveillance procedures governing Index Fund Shares and has a general policy prohibiting the distribution of material, non-public information by its employees. The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Shares.

2. Prior to the commencement of trading, the Exchange will inform its members and member organizations in an Information Circular of the characteristics and risks associated with an investment in the Shares, the procedures for creating and redeeming the Shares, the timing and frequency of the dissemination of the IIV, the application of Commentary .03 to Amex Rule 1000A-AEMI and Amex Rule 1002A to the Fund Shares, Prospectus and/or Product Description delivery requirements, any exemptive relief under the 1940 Act, the Securities Act of 1933, or the Act granted by the Commission, and the suitability requirements of Amex Rule 411.²⁵

3. The Exchange represents that the Trust is required to comply with Rule 10A-3 under the Act²⁶ for the initial and continued listing of the Shares.

This approval order is based on the Exchange's representations.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,²⁷ for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register**. The Commission notes that the Shares are similar in structure, operation, and function to the shares of other exchange-traded funds based on an underlying index composed of fixed income securities, the shares of which are currently listed and trading in the marketplace.²⁸ As mentioned above, the

Commission has previously approved the listing and trading of other derivative securities products based on indices that narrowly missed a quantitative generic listing criterion but satisfied all the others.²⁹ Given that the Shares comply with all of Amex's initial generic listing standards for Index Fund Shares (except for the one requirement of Commentary .03(a)(5) to Amex Rule 1000A-AEMI) and would be subject to Amex's continued listing requirements for Index Fund Shares under Amex Rule 1002A, the listing and trading of the Shares does not appear to present any novel or significant regulatory issues. Therefore, the Commission believes that accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for such products. Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,³⁰ to approve the proposed rule change, as modified by Amendment Nos. 1 and 2 thereto, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) under the Act,³¹ that the proposed rule change (SR-Amex-2007-115), as modified by Amendment Nos. 1 and 2 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-3554 Filed 2-25-08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57354; File No. SR-Amex-2008-10]

Self-Regulatory Organizations; American Stock Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rule 918-ANTE

February 19, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,²

2003-75) (approving the listing and trading of Index Fund Shares based on indexes of fixed income securities selected to correspond generally to the performance of various U.S. bond indexes).

²⁵ See *supra* note 21.

²⁶ 15 U.S.C. 78f(b)(5).

²⁷ 15 U.S.C. 78s(b)(2).

²⁸ 17 CFR 200.30-3(a)(12).

²⁹ 15 U.S.C. 78s(b)(1).

³⁰ 17 CFR 240.19b-4.

notice is hereby given that on February 14, 2008, the American Stock Exchange, LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Amex filed this proposal pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to conform Amex Rule 918-ANTE to non-ANTE Rule 918 in connection with a recent approval to permit the sending of Principal Acting as Agent Orders ("P/A Orders") through the Options Intermarket Linkage (the "Linkage") prior to the opening of trading.⁵

The text of the proposed rule change is available at the Amex, at the Commission's Public Reference Room, and at <http://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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission recently approved the Exchange's proposal to adopt Commentary .06 to Amex Rule 918 to implement Amendment No. 23 to Section 7(a)(i) of the Plan for the Purpose of Creating and Operating an Intermarket Options Linkage (the

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ See Securities Exchange Act Release No. 56850 (November 27, 2007), 72 FR 68225 (December 4, 2007) (SR-Amex-2007-123) ("Original Approval").

²⁵ See *supra* note 15.

²⁶ 17 CFR 240.10A-3.

²⁷ 15 U.S.C. 78s(b)(2).

²⁸ See, e.g., Securities Exchange Act Release Nos. 48881 (December 4, 2003), 68 FR 69739 (December 15, 2003) (SR-NYSE-2003-39) (approving the listing and trading of shares of the iShares Lehman U.S. Aggregate Bond Fund and iShares Lehman TIPS Bond Fund); and 48534 (September 24, 2003), 68 FR 56353 (September 30, 2003) (SR-Amex-

“Linkage Plan” or “Plan”).⁶

Amendment No. 23, coupled with the related Exchange rule filing recently approved by the Commission, will permit the use of the Linkage prior to the opening of trading.

The Exchange proposes to conform Amex Rule 918—ANTE to the recently approved Amex Rule 918 permitting the use of the Linkage prior to the opening of trading. The purpose of this proposal is to correct Amex Rule 918—ANTE which the Exchange inadvertently failed to revise in its prior filing to implement Amendment No. 23. In addition, because Amex Rule 918—ANTE (rather than Rule 918) applies to all options trading, the Exchange seeks to eliminate Commentary .06 to Amex Rule 918.

As set forth in the Original Approval, the Linkage Plan, prior to Amendment No. 23, did not contemplate the use of the Linkage before a Plan participant (a “Participant”) opened for trading and disseminated a quotation in an options series. There, accordingly, was no trade-through protection for opening trades. As a result, if there was a better market away at the time a Participant opened its market, the Amex specialist, responsible both for the opening and for protecting customer orders, could not access that market for a customer. The customer, accordingly, could receive a price inferior to the national best bid and offer.

This proposal to conform Amex Rule 918—ANTE to the recently approved Amex Rule 918 will permit the sending of P/A Orders prior to the opening, allowing the Amex specialist to access better markets on behalf of customers prior to the Exchange’s opening in connection with the ANTE system. In implementing this proposed rule change, the Exchange will ensure that customers receive the best price for their orders. Under the Plan, a Participant receiving market has three (3) seconds to respond to a P/A Order, and the Participant receiving market can then reject a response it receives more than three (3) seconds after sending the order. In the unlikely event that the Amex opens its market during this three (3) second period, it is possible that the opening price could differ from the price of an executed P/A Order. In that case, the Amex will ensure that the specialist provides the customer with the most advantageous price. Therefore, the proposal will only benefit customers by providing them with potential price improvement at the opening.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act⁷ in general and furthers the objectives of Section 6(b)(5) of the Act⁸ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) under the Act¹⁰ because: (i) It does not significantly affect the protection of investors or the public interest; (ii) it does not impose any significant burden on competition; and (iii) by its terms, it does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. 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.

The Amex has requested that the Commission waive the 30-day operative

delay for the proposal. The Commission grants Amex’s request.¹¹ The proposed rule change would allow Amex to send P/A Orders through the Linkage prior to the opening of trading, which should facilitate access to superior prices that may be available at other options exchanges at the opening. Therefore, Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, because it may result in better-priced executions for investors. For this reason, the Commission designates the proposal effective and operative upon filing with the Commission.

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-Amex-2008-10 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-Amex-2008-10. 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

⁶ *Id.* See also Securities Exchange Act Release No. 56780 (November 13, 2007), 72 FR 65113 (November 19, 2007) (File No. 4-429).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. Section 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ For purposes only of waiving the operative delay of this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Amex-2008-10 and should be submitted on or before March 18, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-3559 Filed 2-25-08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57355; File No. SR-CBOE-2007-03]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of a Proposed Rule Change as Modified by Amendment No. 1 Thereto Amending its Obvious Error Rule for Options on Indices, ETFs, and HOLDRS

February 20, 2008.

I. Introduction

On February 21, 2007, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend CBOE Rule 24.16, which is the Exchange's rule applicable to the nullification and adjustment of transactions in index options, options on exchange-traded funds ("ETFs"), and options on Holding Company Depository Receipts ("HOLDRS"), to: (i) Modify the nullification and adjustment provisions for erroneous prints and erroneous quotes in the underlying; (ii) eliminate the nullification and adjustment provision for trades below intrinsic value; and (iii) modify the

nullification provision for "no bid series." On December 20, 2007, the CBOE submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on December 28, 2007.³ The Commission received no comment letters on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

The Exchange proposes to modify CBOE Rule 24.16 with respect to erroneous prints and erroneous quotes in the underlying. Under the revised rule, the appropriate Exchange committee would identify particular underlying or related instrument(s) that would be used to determine an erroneous print or quote and also would identify the relevant market(s) trading the underlying or related instrument to which the Exchange would look for purposes of applying the obvious error analysis. The underlying or related instrument(s) may include the underlying or related ETF(s), HOLDRS(s), and/or index value(s),⁴ and/or related futures product(s).⁵ The relevant underlying market(s) may include one or more markets. The underlying or related instrument(s) and relevant market(s) would be designated by the appropriate Exchange committee and announced to the membership via Regulatory Circular. For a particular ETF, HOLDRS, index value, and/or futures product to qualify for consideration as a "related instrument," the revised rule requires that: (i) The option class and related instrument must be derived from or designed to track the same underlying index; or (ii) in the case of S&P 100-related options, the options class and related instrument must be derived from or designed to track the S&P 100 Index or the S&P 500 Index.

In addition, the proposal would eliminate the nullification and adjustment provision for trades below intrinsic value. CBOE Rule 24.16(a)(5) currently states that an obvious pricing error will be deemed to have occurred

when the transaction price of an option series is more than \$0.10 below the intrinsic value of the same option. The purpose of deleting this provision is to account for circumstances under which options are correctly priced \$0.10 or more below the intrinsic value. For example, this situation might occur in options with underlying securities that are hard-to-borrow, extremely volatile issues where one market participant seeks to transfer the risk of selling or buying a security to other market participants by trading options, and options having European-style exercise, thus preventing exercise prior to expiration. According to the Exchange, the elimination of this provision is consistent with the Exchange's current rule for equity options, which does not have an obvious error review for trades below intrinsic value.⁶

Finally, the proposal would modify the nullification provision for no bid series. Currently, the rule provides that electronic transactions in series that are quoted no bid on the Exchange are subject to nullification, provided that at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid at the time of execution. Under the revised rule, additional criteria and clarifying language would be added. Specifically, an electronic transaction in a series quoted no bid on the Exchange would be subject to nullification provided that: (i) The bid in that series immediately preceding the execution was, and for five seconds prior to the execution remained, zero; and (ii) at least one strike price below (for calls) or above (for puts) in the same options class was quoted no bid and offered at the same price or lower as that series at the time of execution. The revised no bid provision would provide that, when determining the Exchange's quotes in the relevant series, bids and offers of the parties to the subject trade that are in any of the series in the same options class shall not be considered. The revised rule also would provide that when an option series in a class has a non-standard deliverable (e.g., 150 contract delivery requirement), it will be considered separately for purposes of the no bid provision from series in such class that do not have a non-standard deliverable. The revised rule would clarify that the no bid provision is intended to apply to series quoted no bid on the Exchange (as opposed to series for which the national best bid is quoted no bid).

³ Securities Exchange Act Release No. 57012 (December 20, 2007), 72 FR 73921.

⁴ An "index value" is the value of an index as calculated and reported by the index's reporting authority. Use of an index value would be applicable only for purposes of identifying an erroneous print in the underlying (and not an erroneous quote). See proposed changes to CBOE Rule 24.16(a)(3).

⁵ This proposed rule change does not seek to designate any of the individual underlying stocks (or related options or futures on any of the individual underlying stocks) that comprise a particular ETF, HOLDR, or index.

⁶ See CBOE Rule 6.25.

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁷ and, in particular, the requirements of Section 6(b) of the Act⁸ and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁹ in that the proposal promotes just and equitable principles of trade, prevents fraudulent and manipulative acts, removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

The Commission considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the price of the executed trade indicates an "obvious error" may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, the determination of whether an "obvious error" has occurred should be based on specific and objective criteria and subject to specific and objective procedures.

The provisions of Rule 24.16 that relate to an erroneous print or quote in the underlying market would be revised to permit the Exchange to designate the underlying or related instruments that can be used as a basis for determining whether there is an erroneous print or quote in such instrument that indicates an obvious error has occurred. This revision recognizes that market participants trading in the index, ETF, or HOLDRS options may base their options pricing on trading in various markets and instruments. By requiring the underlying related instrument to be derived from or track the same underlying index, the Exchange has set forth objective criteria that must be met before it can designate such underlying or related instrument for use in the obvious error analysis. The elimination of the provision for trades below intrinsic value would align Rule 24.16 with the Exchange's obvious error rule for equity options, which does not contain a similar provision. The revisions to the "no bid series"

⁷ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

provision incorporate additional objective factors to be used by CBOE in determining whether an obvious error exists.

In the Commission's view, the proposed changes to Rule 24.16 are appropriate and are consistent with the Act. These revisions provide reasonable and objective measures to assist the Exchange in ascertaining whether an obvious error has occurred in the aforementioned circumstances.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-CBOE-2007-03), as amended, is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8-3553 Filed 2-25-08; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

National Women's Business Council; Notice of Public Meeting

In accordance with the Federal Advisory Committee Act, 5 U.S.C. App 2, 10(a)(2) and Women's Business Ownership Act, Public Law 106-554 as amended, notice is hereby given that the National Women's Business Council (NWBC) will hold a public meeting. The meeting will be held on Thursday, March 13, 2008, from 8:30 a.m. until 12 p.m. at The Longaberger Company, 1500 E. Main Street, Newark, Ohio 43055. The issues to be discussed are the NWBC's fiscal year 2007 reports, the 2008 budget and projects, and the swearing-in of new members.

This meeting is open to the public, however, advance notice of attendance is requested. Anyone wishing to attend the Council meeting should contact Katherine Stanley no later than Friday March 7, 2008 by e-mail at Katherine.stanley@nwbc.gov or fax to 202-205-6825.

Anyone wishing to make a presentation to the Council during the meeting must contact Margaret M. Barton in writing, at the National Women's Business Council, 409 Third Street, SW., Suite 210, Washington, DC 20024, by e-mail at Margaret.barton@nwbc.gov or fax to

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

202-205-6825 by Friday March 7, 2008, in order to be put on the agenda.

Cherylyn LeBon,

Assistant Administrator for Intergovernmental Affairs, SBA Committee Management Officer.

[FR Doc. E8-3617 Filed 2-25-08; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about or intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 6, 2007, vol. 72, no. 234, page 68948. This project involves collecting data from recently certified ASEL pilots on the quality of their flight training and practical test experiences.

DATES: Please submit comments by March 27, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at Carla.Mauney@faa.gov.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: 2005 Private Single-Engine Land Pilot Assessment of Instruction and Practical Test Experiences.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120-0696.

Forms(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 6,000 respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 1 hour per response.

Estimated Annual Burden Hours: An estimated 6,000 hours annually.

Abstract: This project involves collecting data from recently certified ASEL pilots on the quality of their flight training and practical test experiences.

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 addressed to

Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to aira_submission@omb.eop.gov or faxed to (202) 395-6974.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents.

Issued in Washington, DC, on February 19, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES-200.

[FR Doc. 08-830 Filed 2-25-08; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 6, 2007, vol. 72, no. 234, pages 68948-68949. The respondents are those airport operators voluntarily submitting noise exposure maps and noise compatibility programs to the FAA for review and approval.

DATES: Please submit comments by March 27, 2008.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at Carla.Mauney@faa.gov.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Airport Noise Compatibility Planning.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120-0517.

Form(s): There are no forms associated with this collection.

Affected Public: An estimated 15 respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 3,883 hours per response.

Estimated Annual Burden Hours: An estimated 58,240 hours annually.

Abstract: The respondents are those airport operators voluntarily submitting noise exposure maps and noise compatibility programs to the FAA for review and approval.

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 Transportation/FAA, and sent via electronic mail to aira_submission@omb.eop.gov or faxed to (202) 395-6974.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on February 19, 2008.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES-200.

[FR Doc. 08-831 Filed 2-25-08; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be on April 8, 2008, at 10 a.m.

ADDRESSES: The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591, 10th floor, MacCracken Room.

FOR FURTHER INFORMATION CONTACT:

Gerri Robinson, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-9678; fax (202) 267-5075; e-mail Gerri.Robinson@faa.gov.

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the Executive Committee of the Aviation Rulemaking Advisory Committee taking place on April 8, 2008, at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591. The agenda includes:

- Introduction of new Assistant Chairs.
- Continuous Improvement (Committee Process).
- Part 147 Working Group Report.
- Issue Area Status Reports from Assistant Chairs.
- Remarks from other EXCOM members.

Attendance is open to the interested public but limited to the space available. The FAA will arrange teleconference service for individuals wishing to join in by teleconference if we receive notice by April 1. Arrangements to participate by teleconference can be made by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Callers outside the Washington metropolitan area are responsible for paying long-distance charges.

The public must arrange by April 1 to present oral statements at the meeting. The public may present written statements to the executive committee by providing 25 copies to the Executive Director, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, February 13, 2008.

Pamela A. Hamilton-Powell,
Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. E8-3587 Filed 2-25-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****[Summary Notice No. PE-2008-0104]****Petition for Exemption; Summary of Petition Received****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before March 17, 2008.

ADDRESSES: You may send comments identified by Docket Number FAA-2008-0104 using any of the following methods:

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

- *Fax:* Fax comments to the Docket Management Facility at 202-493-2251.

- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for 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).

Docket: To read background documents or comments received, go to

<http://www.regulations.gov> at any time or to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Boylon (425-227-1152), Transport Standards Staff, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, WA 98057-3356, or Frances Shaver (202) 267-9681, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on February 19, 2008.

Pamela Hamilton-Powell,
Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA-2008-0104.
Petitioner: BAYSYS Technologies.
Section of 14 CFR Affected: 25.562(b).
Description of Relief Sought: To exempt 20 seats in one compartment from the deceleration requirements on an Airbus A340-200 aircraft that is configured for "private, not-for-hire use." All other passenger seats in the cabin will meet the requirements of § 25.562(b).

[FR Doc. E8-3586 Filed 2-25-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****Proposed Agency Information Collection Activities; Comment Request****AGENCY:** Federal Railroad Administration, DOT.**ACTION:** Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements (ICRs) for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than April 28, 2008.

ADDRESSES: Submit written comments on any or all of the following proposed

activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 25, Washington, DC 20590, or Ms. Gina Christodoulou, Office of Support Systems Staff, RAD-43, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, "Comments on OMB control number 2130-____." Alternatively, comments may be transmitted via facsimile to (202) 493-6216 or (202) 493-6497, or via e-mail to Mr. Brogan at robert.brogan@dot.gov, or to Ms. Christodoulou at: gina.christodoulou@dot.gov. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493-6292) or Ms. Gina Christodoulou, Office of Support Systems Staff, RAD-43, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493-6139). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law No. 104-13, § 2,109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501-3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for

FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses). See 44 U.S.C. 3506(c)(2)(A)(i)-(iv); 5 CFR 1320.8(d)(1)(i)-(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it

organizes information collection requirements in a "user friendly" format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. See 44 U.S.C. 3501.

Below is a brief summary of the currently approved ICRs that FRA will submit for clearance by OMB as required under the PRA:

Title: Railroad Locomotive Safety Standards and Event Recorder.

OMB Control Number: 2130-0004.

Abstract: The Locomotive Inspection requires railroads to inspect, repair, and maintain locomotives and event recorders so that they are safe, free of defects, and can be placed in service without peril to life. Crashworthy

locomotive event recorders provide FRA with verifiable factual information about how trains are maintained and operated, and are used by FRA and State inspectors for Part 229 rule enforcement. The information garnered from crashworthy event recorders is also used by railroads to monitor railroad operations and by railroad employees (locomotive engineers, train crews, dispatchers) to improve train handling, and promote the safe and efficient operation of trains throughout the country, based on a surer knowledge of different control inputs.

Affected Public: Businesses.

Respondent Universe: 744 Railroads.

Frequency of Submission: On occasion.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
229.9—Movement of Non-Complying Locomotives.	744 Railroads	21,000 tags	1 minute	350	\$12,950
229.17—Accident Reports	744 Railroads	1 report	15 minutes .....	.25	11
229.21—Daily Inspection	744 Railroads	5,655,000 rcds	1 or 3 minutes	189,583	8,341,652
—MU Locomotives: Written Reports	744 Railroads	250 reports	3 minutes	13	572
Form FRA F 6180.49A Locomotive Insp/Repair Rcd.	744 Railroads	7,250 forms	2 minutes	242	8,954
210.31—Locomotive Noise Emission Test.	744 Railroads	100 tests/remarks ...	15 minutes	25	925
229.23/229.27/229.29/229.31—Periodic Inspection/Annual Biennial Tests/Main Res. Tests.	744 Railroads	87,000 tests	8 hours	696,000	25,752,000
229.33—Out-of Use Credit	744 Railroads	500 notations	5 minutes	42	1,554
229.25(1)—Test: Every Periodic Insp.—Written Copies of Instruction.	744 Railroads	200 amendments	15 minutes	50	1,700
229.25(2)—Duty Verification Readout Record.	744 Railroads	4,025 records	90 minutes	6,038	181,140
229.25(3)—Pre-Maintenance Test—Failures.	744 Railroads	700 notations	30 minutes	350	10,500
229.135(A)—Removal From Service	744 Railroads	1,000 tags	1 minute	17	629
229.135(B)—Preserving Accident Data	744 Railroads	2,800 reports	15 minutes	700	23,800

New Requirements

229.27—Annual Tests	744 Railroads	700 test records	90 minutes	1,050	31,500
229.135(b)(1) & (2)—Equipment Rqmnts—Mag Tape Replacements.	744 Railroads	850 Cert. Mem Modules.	2 hours + 200 hours	1,900	1,500
229.135(b)(3)—Equipment Rqmnts—Lead Locomotives.	744 Railroads	600 Cert. Mem Modules.	2 hours	1,200	1,500
229.135(b)(4)—Equipment Rqmnts—MU Locomotives.	744 Railroads	255 Cert. Mem Modules.	2 hours	510	1,500
229.135(b)(5)—Equipment Rqmnts—Other Locomotives.	744 Railroads	1,000 Cert. Mem Modules.	2 hours	2,000	1,500

Total Responses: 5,783,231.
Estimated Total Annual Burden: 900,070 hours.

Form(s): FRA F 6180.49A.

Status: Regular Review.

Title: Qualifications For Locomotive Engineers.

OMB Control Number: 2130-0533.

Abstract: Section 4 of the Rail Safety Improvement Act of 1988 (RSIA), Public Law 100-342, 102 Stat. 624 (June 22,

1988), later amended and re-codified by Public Law 103-272, 108 Stat. 874 (July 5, 1994), required that FRA issue regulations to establish any necessary program for certifying or licensing locomotive engineers. The collection of information is used by FRA to ensure that railroads employ and properly train qualified individuals as locomotive engineers and designated supervisors of locomotive engineers. The collection of

information is also used by FRA to verify that railroads have established required certification programs for locomotive engineers and that these programs fully conform to the standards specified in the regulation.

Affected Public: Businesses.

Respondent Universe: 744 railroads.

Frequency of Submission: On occasion; annually; tri-annually.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
240.9—Waivers	744 railroads	3 waivers	1 hour	3	\$114
240.11—Certific. Programs	744 railroads	50 amend. prog	1 hour	50	1,900
New Cert. Prog	20 New railroads	20 cert. programs	40 hours	800	30,400
Final Review	20 railroads	20 reviews	1 hour	20	760
Material Changes to Cert. Program	744 railroads	30 modified programs.	45 minutes	23	874
240.105(a)—Selection Criteria for DSLEs—Rpts.	744 railroads	5 amendments	1 hour	5	190
(b) Approval Plan—Amendments	744 railroads	5 amendments	1 hour	5	190
240.109—Candidate's written comments on prior safety data.	13,333 candidates ..	25 responses	60 minutes	25	1,175
240.111/App C—Driver's License Data ..	13,333 candidates ..	13,333 requests	15 minutes	3,333	156,651
—NDR Match—notifications and requests for data.	744 railroads	133 responses + 133 requests.	15 minutes	67	2,848
—Written response from candidate on driver's lic. data.	744 railroads	20 cases and comments.	15 minutes	5	235
240.111(g)—Notice to RR of Absence of License.	40,000 candidates ..	4 letters	15 minutes	1	47
240.111(h)—Duty to furnish data on prior safety conduct as motor vehicle op.	744 railroads	200 phone calls	10 minutes	33	1,551
240.113—Notice to RR Furnishing Data on Prior Safety Conduct—Diff. RR.	13,333 candidates ..	267 requests + 267 responses.	15 min./30 min	200	8,203
240.119—Self-referral to EAP re: active substance abuse disorder.	40,000 locomotive engineers.	50 self-referrals	5 minutes	4	188
240.121—Criteria—Vision/Hearing; Acuity Data—New Railroads.	20 railroads	20 copies	15 minutes	5	190
240.121—Criteria—Vision/Hearing; Acuity Data—Cond. Certification.	744 railroads	20 reports	1 hour	20	760
240.121—Criteria—Vision/Hearing; Acuity Data—Not Meeting Standards.	744 railroads	10 notifications	15 minutes	3	141
240.201/221—List of Certified Loco. Engineers.	744 railroads	744 updates	15 minutes	186	7,068
240.201/221—List of Qualified DSLEs	744 railroads	744 updated lists	15 minutes	186	7,068
240.201/223/301—Loco. Engineers Certificate.	40,000 candidates ..	13,333 certificates ...	5 minutes	1,111	42,218
240.201/223—List of Auth Empl	744 railroads	5 lists	15 minutes	1	38
240.205—Data to EAP Counselor	744 railroads	133 records	5 minutes	11	517
240.207—Medical Certificate	40,000 candidates ..	13,333 certificates ...	70 minutes	15,555	1,711,050
—Written determinations waiving use of corrective device.	744 railroads	10 determinations ...	2 hours	20	2,200
240.219—Denial of Certification	13,333 candidates ..	30 letters +30 responses.	1 hour	60	2,550
—Notification	744 railroads	30 notifications	1 hour	30	1,140
240. 229—Requirements For Joint Operations.	321 railroads	184 calls	5 minutes	15	705
240.309—RR Oversight Resp.: Poor Safety Conduct—Noted.	15 railroads	6 annotations	15 minutes	2	98
Testing Rqmnts					
240.209/213—Written Tests	40,000 candidates ..	13,333 tests	2 hours	26,666	1,013,308
240.211/213—Perf. Test	40,000 candidates ..	13,333 tests	2 hours	26,666	1,013,308
240.303—Annual operational monitor observation.	40,000 candidates ..	40,000 tests/docs.	2 hours	80,000	3,920,000
240.303—Annual operating rules compliance test.	40,000 candidates ..	40,000 tests	1 hour	40,000	1,960,000
Recordkeeping					
240.215—Retaining Info. Supporting Determination.	744 railroads	13,333 records	30 minutes	6,667	253,346
240.305—Engineer's Notice of Non-Qualific.	40,400 engineers or candidates.	100 notifications	5 minutes	8	376
—Relaying Non-qual. Status to other certifying railroad.	800 engineers	2 letters	30 minutes	1	47
240.307—Notice to Engineer of Disqualification.	744 railroads	650 letters	1 hour	650	24,700
240.309—Railroad Annual Review	28 railroads	28 reviews	40 hours	1,120	71,680
—Report of findings	28 railroads	6 reports	1 hour	6	384

Total Responses: 163,997.
Estimated Total Annual Burden: 203,568 hours.
Status: Regular Review.
Title: Railroad Worker Protection.
OMB Control Number: 2130-0539.
Type of Request: Extension of a currently approved collection.
Affected Public: Railroads.

Abstract: This rule establishes regulations governing the protection of railroad employees working on or near railroad tracks. The regulation requires that each railroad devise and adopt a program of on-track safety to provide employees working along the railroad with protection from the hazards of being struck by a train or other on-track equipment. Elements of this on-track

safety program include an on-track safety manual; a clear delineation of employers' responsibilities, as well as employees' rights and responsibilities thereto; well-defined procedures for communication and protection; and annual on-track safety training. The program adopted by each railroad is subject to review and approval by FRA.

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
Form FRA F 6180.199—Part 214 Railroad Workplace Safety Violation Report Form.	350 Safety Inspectors.	200 forms	4 hours	800	\$28,800
214.311—Written Procedure of Challenges Made to On-Track Safety Procedures—Program Amendments.	744 Railroads	20 amend./584 prog. amend.	20 hours/4 hours ...	2,736	103,968
—Subsequent Years: Safety Programs.	5 Railroads	5 safety prog	250 hours	1,250	47,500
214.313—Responsibility of Individual Roadway Workers—Good Faith Challenges.	20 Railroads	80 challenges	4 hours	320	11,520
214.315/335—Supervision and Communication Job Briefings.	50,000 Roadway Empl.	16,350,000 brf	2 minutes	545	19,620,000
214.321—Exclusive Track Occupancy—Working Limits—Written Authorities.	85,853 Roadway Workers.	700,739 auth	40 seconds	7,786	280,296
214.325—Train Coordination—Communications.	50,000 Roadway Workers.	36,500 comm	15 seconds	152	55,472
214.327—Inaccessible Track—Establishing Working Limits.	50,000 Roadway Workers.	50,000 Occurrences	10 minutes	8,333	299,988
214.337—On-Track Safety Procedures for Lone Workers: Train Detection—Written Statements.	744 Railroads	2,080,000 stat	30 seconds	17,333	623,988
214.355—Training and Qualification for Operators of Roadway Maintenance Machines.	50,000 Roadway Workers.	50,000 records	2 minutes	1,667	63,346
214.503—Good Faith Challenges; Procedures for Notification and Resolution.	50,000 Roadway Workers.	125 notific	10 minutes	21 hours	756
—Resolution Procedures	744 Railroads	10 procedures	2 hours	20 hours	760
214.505—Req'd Environmental Control and Protection Systems For New On-Line Roadway Maintenance Machines with Enclosed Cabs.	744 Railroads	9 lists	1 hour	9 hours	342
214.507—Required Safety Equipment for New On-Track Roadway Maint. Machines—Stickers.	744 Railroads	1,000 stickers	5 minutes	83	2,988
214.511—Req'd Audible Warning Devices—Roadway Maintenance Machines—I.D.	744 Railroads	3,700 devices	5 minutes	308	11,088
214.513—Retrofitting Existing On-track RMM.	744 Railroads	2,300 Identific	5 minutes	192	6,912
214.515—Overhead Covers For Existing On-Track Roadway Maintenance Machines (RMM).	744 Railroads	500 requests + 500 responses.	10 min. + 20 min ...	250	9,334
214.517—Retrofitting of Existing On-Track RMM Manufactured After 1991.	744 Railroads	6,000 stencils	5 minutes	500	18,000
214.518—Safe and secure positions for riders.	744 Railroads	7,500 markings	5 minutes	625	22,500
214.523—Hi-Rail Vehicles—Inspections—Rclds.	744 Railroads	2,000 recds	60 minutes	2,000	72,000
—Non-Complying Conditions—Tags + Reports.	744 Railroads	500 tags + 500 reports.	10 min. + 15 min ...	208	7,488
214.527—On-Track RMM; Inspection for Compliance; Repair Schedules—Tags + Reports.	744 Railroads	550 tags + 550 reports.	5 min. + 15 min	184	6,624
214.533—Schedule of Repairs; Subject to Availability of Parts—Records.	744 Railroads	250 records	15 minutes	63	2,394

Total Responses: 19,294,122
Estimated Total Annual Burden: 589,840 hours.
Form(s): FRA F 6180.119.
Status: Regular Review.
Title: Locomotive Cab Sanitation Standards.
OMB Control Number: 2130-0552.

Abstract: The collection of information is used by FRA to promote rail safety and the health of railroad workers by ensuring that all locomotive crew members have access to toilet/sanitary facilities—on as needed basis—which are functioning and hygienic. Also, the collection of information is

used by FRA to ensure that railroads repair defective locomotive toilet/sanitary facilities within 10 calendar days of the date on which these units becomes defective.
Affected Public: Businesses.
Respondent Universe: Railroads.
Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
229.137(d)—Sanitation—Locomotive Defective or Unsanitary Toilet Facility Placed in Trailing Service—Clear Markings: Unavailable For Use.	744 Railroads	7,800 notices	90 seconds	195	\$6,435
229.137(e)—Sanitation—Locomotive Defective Toilet Facility—Clear Markings: Unavailable For Use.	744 Railroads	5,200 notices	90 seconds	130	4,290
229.139(d)—Servicing—Locomotive Used in Transfer or Switching Service with Defective Toilet Facility—Date Defective.	744 Railroads	93,600 notations	30 seconds	780	25,740

Total Responses: 106,600.
Estimated Total Annual Burden: 1,105 hours.
Status: Regular Review.
Title: Positive Train Control.
OMB Control Number: 2130-0553.

Abstract: The collection of information is used by FRA to ensure that new or novel signal and train control technologies, essentially electronic or processor-based systems, meet the “performance standard” stipulated in FRA’s final rule and work

as intended in the U.S. rail environment. These new signal and train control technologies are known as “Positive Train Control” (PTC).
Affected Public: Businesses.
Respondent Universe: Railroads.
Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
234.275—Processor-Based Systems—Deviations from Product Safety Plan (PSP)—Letters.	85 Railroads	25 letters	4 hours	100	\$3,800
236.18—Software Management Control Plan.	85 Railroads	45 plans	100 hours	4,500	297,000
236.905—Railroad Safety Program Plan (RSPP).	85 Railroads	15 plans	250 hours	3,750	153,000
—Response to FRA Request For Add'l Information.	85 Railroads	2 documents	8 hours	16	608
—FRA Approval of RSPP Modifications.	85 Railroads	5 amendments	60 hours	300	13,080
236.907—Product Safety Plan (PSP)—Development.	85 Railroads	30 plans	240 hours	7,200	900,000
236.909—Minimum Performance Standard.	85 Railroads	7 petitions	8 hours	56	3,696
—Petitions For Review and Approval	85 Railroads	5 assessments	3,000 hours	15,000	1,875,000
—Performance of Full Risk Assessment.	85 Railroads	7 assessments	1,200 hours	8,400	1,050,000
—Subsequent Years—Full Risk Assessment	85 Railroads	25 assessments	240 hours	6,000	750,000
—Abbreviated Risk Assessment	85 Railroads	10 assessments	60 hours	600	75,000
—Subsequent Years—Abbrev. Risk Assessment	85 Railroads	5 assessments	3,000 hours	15,000	1,875,000
Alternative Risk Assessment	85 Railroads	20 notifications	80 hours	1,600	60,800
236.911—Exclusions—Notification to FRA.	85 Railroads	2 plans	240 hours	480	18,240
—Election to Have Excluded Products Covered By Submitting a Product Safety Plan (PSP).	85 Railroads	5 notices/plans	240 hours	1,200	45,600
236.913—Notification/Submission to FRA of Joint Product Safety Plan.	85 Railroads	32 petitions	40 hours	1,280	48,640
—Petitions For Approval/Informational Filings.	85 Railroads	20 documents	40 hours	800	30,400
—Responses to FRA Request for Further Info. After Informational Filing.					

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
—Responses to FRA Request for Further Info. After Agency Receipt of Notice of Product Development—Technical Consultations.	85 Railroads	5 consultations	120 hours	600	75,000
—Petitions for Final Approval	85 Railroads	20 petitions	40 hours	800	30,400
—FRA Receipt of Petition & Request For Info.	85 Railroads	10 documents	80 hours	800	30,400
—Agency Consultations To Decide on Petition.	85 Railroads	10 consultations	40 hours	400	15,200
—Other Petitions for Approval	85 Railroads	5 petitions	60 hours	300	11,400
—FRA acknowledges receipt of petitions.	85 Railroads	10 documents	40 hours	400	15,200
236.913 Petitions for Approval/Informational Filings—Comments.	Public/RR Community.	10 comments	8 hours	80	2,960
Product Safety Plan (PSP)—3rd Party Assessment.	85 Railroads	3 assessments	4,000 hours	12,000	1,500,000
Product Safety Plan—Amendments	85 Railroads	15 amendments	40 hours	600	22,200
236.917—Retention of Records	85 Railroads	22 documents	40 hours	880	33,440
Report of Inconsistencies with PSP to FRA.	85 Railroads	40 reports	20 hours	800	30,400
236.919—Operations & Maintenance Manual.	85 Railroads	30 manuals	120 hours	3,600	136,800
—Plans For Proper Maintenance, Repair, Inspection of Safety-Critical Products.	85 Railroads	30 plans	200 hours	6,000	228,000
—Hardware/Software/Firmware Revisions.	85 Railroads	5 revisions	40 hours	200	7,600
—Identification of Safety-Critical Components.	85 Railroads	10,000 markings	10 minutes	1,667	51,667
236.921—Training	85 Railroads	30 Training Prog	400 hours	12,000	456,000
—Training of Signalmen & Dispatchers.	85 Railroads	220 sessions	40 hours/20 hrs	8,400	1,050,000
236.923—Task Analysis/Basic Reqmnts—Recds.	85 Railroads	4,400 records	10 minutes	733	27,854

Total Responses: 15,145.

Estimated Total Annual Burden: 117,342 hours.

Status: Regular Review.

Title: Post-Traumatic Stress in Train Crew Members After a Critical Incident.

OMB Control Number: 2130-0567.

Abstract: Nearly 1,000 fatalities occur every year in this country from trains striking motor vehicles at grade crossings and individual trespassers along the track. These events can be very traumatic to train crew members, who invariably are powerless to prevent such collisions. Exposure of train crews to such work-related traumas can cause extreme stress and result in safety-impairing behaviors, such as are seen in Post-Traumatic Stress Disorder or Acute Stress Disorder. Most railroads have Critical Incident Stress Debriefing (CISD) intervention programs designed to mitigate problems caused by exposure to these traumas. However, they are quite varied in their approach, and it is not certain which components of these programs are most effective. The purpose of this collection of information is to identify “best practices” for CISD programs in the railroad industry. By means of written and subsequent oral interviews with train crew members that will each take

approximately 45 minutes, the approved study aims to accomplish the following: (1) Benchmark rail industry best practices of CISD programs; (2) Establish the extent of traumatic stress disorders due to grade crossing and trespasser incidents in the rail industry (not by region or railroad) and identify at-risk populations; and (3) Evaluate the effectiveness of individual components of CISD programs. It should be noted that only the components of CISD programs will be evaluated, not an individual railroad’s overall intervention program.

Affected Public: Train Crew Members.
Respondent Universe: 2,000 Train Crew Members.

Frequency of Submission: On Occasion.

Form(s): FRA F 6180.120; FRA F 6180.121; FRA F 6180.122.

Estimated Annual Burden: 3,000 hours.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on February 20, 2008.

D.J. Stadler,

*Director, Office of Financial Management,
Federal Railroad Administration.*

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BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

National Rural Transportation Assistance Program Request for Proposals (RFP)

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice; request for proposals.

SUMMARY: This solicitation is for proposals from not-for-profit entities with rural transit and technical assistance expertise for a cooperative agreement to develop and implement a National Rural Transportation Assistance Program (RTAP). The entity or entities selected will manage a National technical assistance program that improves and enhances the coordination of Federal resources for

rural transportation. The major goal of the National RTAP is to assist States and local communities in the expansion and provision of rural public transportation. The Federal Transit Administration (FTA) will award one or more five-year agreement(s), funded annually. Year one of the cooperative agreement(s) is for \$1.212 million dollars as authorized in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA—LU) and appropriated in FY2007. Funding for subsequent years will be based on annual appropriations, as well as annual performance reviews. However, years 2010 and 2011 are subject to the next reauthorization.

DATES: Proposals must be submitted electronically by April 11, 2008.

ADDRESSES: Proposals shall be submitted electronically to <http://www.grants.gov>. Grants.Gov allows organizations to find and apply for funding opportunities electronically from all Federal grant-making agencies. Grants.Gov is the single access point for over 1,000 cooperative agreement programs offered by the 26 Federal grant-making agencies.

Proposals can also be submitted in hard copy accompanied by an electronic version to Pamela Brown, 1200 New Jersey Avenue, E43-465, Washington, DC 20590, or by electronic mail to Pamela.brown@dot.gov.

FOR FURTHER PROGRAM INFORMATION

CONTACT: Pamela Brown at 202-493-2503; FAX: 202-366-7951; or via e-mail: pamela.brown@dot.gov.

I. Funding Opportunity Description

FTA is soliciting proposals for a cooperative agreement (or agreements) to implement the National RTAP. FTA will award one or more five-year cooperative agreements, which will be funded annually at \$1.2 to \$1.5 million (subject to the availability of appropriations). The purpose of this cooperative agreement is to develop and implement an RTAP. The major goal of the National RTAP is to assist States in the service provision of rural public transportation at both the State and local levels. RTAP funds may be used for training, technical assistance, research, and related support services. The National RTAP includes the following tasks: (1) To promote the delivery of safe and effective public transportation in non-urbanized areas; (2) To make more effective use of public and private resources in the provision of rural public transportation; (3) To support the coordination of public and human service transportation; (4) To foster the development of State and

local capacity for addressing the training and technical assistance needs of the rural transportation community; (5) To facilitate peer-to-peer self-help through networks of transit professionals; (6) To improve the quality of information and technical assistance available through the development of training and technical assistance resource materials; (7) To disseminate information and resources efficiently to those who need them; (8) To conduct research and analysis about rural transit; (9) Maintain Mechanism for User Input and Feedback; and (10) Project Management and Administration.

The National RTAP will pursue the following strategies in its development and delivery of technical assistance services targeted to enhance rural public transportation: building partnerships, leadership development, knowledge management and customer-focused service in order to facilitate capacity building at the State and local levels, and the provision of technical expertise for research and analysis, either through staff resources or contracts. RTAP personnel will engage early and often with Technical Assistance (TA) recipients to ensure knowledge is transferred and relationships are developed. The RTAP will develop an information and referral system as a key focal point to disseminate models, and identify useful practices for innovations in rural public transportation and systems. The RTAP also will build coordination with and referrals to other TA centers focused in targeted areas related to rural public transportation to build capacity (for example, the National Resource Center for Coordination, the National Senior Transportation Center, JOBLINKS, and Project ACTION).

The National RTAP program will create and maintain collaborative public and private partnerships at all levels—local, tribal, State and Federal, including a broad range of stakeholders interested in facilitating rural public transportation access to employment, health, education, recreation and other community services for elderly individuals, individuals with disabilities, low income individuals and the general public in rural and small urban areas.

II. Background

From Fiscal Years (FY) 1988–2005, the RTAP was funded at approximately \$5 million each FY, with approximately \$500–750,000 each year devoted to a National project. RTAP consists of two components, the State program and the national program. The RTAP program is currently funded as a two percent

takedown from the Section 5311 program. 85 percent of the takedown is used to fund the State RTAP program and the remaining 15 percent is for the National RTAP program.

FTA implements the national program through a cooperative agreement with a private nonprofit organization demonstrating a commitment to serving rural, small urban, and specialized transit providers. The nonprofit organization which FTA selects through a competitive process may receive assistance under cooperative agreements for up to five consecutive years before FTA conducts a new competitive selection.

RTAP is FTA's major funding mechanism for rural training, technical assistance and research initiatives. The objectives of the National RTAP are:

1. To promote the delivery of safe and effective public transportation in nonurbanized areas;
2. To make more effective use of public and private resources in the provision of rural transportation;
3. To support the coordination of public and human service transportation;
4. To foster the development of state and local capacity for addressing the training and technical assistance needs of the rural transportation community;
5. To facilitate peer-to-peer self help through networks of transit professionals;
6. To improve the quality of information and technical assistance available through the development of training and technical assistance resource materials;
7. To disseminate information and resources efficiently to those who need them; and
8. To conduct research, including analysis of data reported to FTA's National Transit Database (NTD), and to maintain current profiles of the characteristics of rural transit and the inventory of providers of rural and specialized transportation providers.

III. Objective

The objective of this project is to provide technical support through a cooperative agreement with a nonprofit entity currently demonstrating an independent commitment to serving the ultimate beneficiaries of FTA's National RTAP.

IV. Scope of Work

The recipient will provide technical assistance that will be useful to beneficiaries of the FTA National RTAP. Under this arrangement:

- The recipient will have the lead responsibility for overall management of

the National RTAP, which includes: planning and preparing the annual work program; supporting and assisting the entities administering the state RTAP activities; developing and promoting training materials; conducting outreach and coordination with other organizations involved in rural public transportation; convening national and regional meetings on rural topics; and monitoring the success of the RTAP programs through user input and feedback.

- The recipient will also have the lead responsibility for operation of the RTAP Rural Resource Center, which shall include: providing toll-free telephone assistance; disseminating information electronically; distributing resource materials; collecting and maintaining available information resources; regularly updating a catalog of relevant training materials; developing timely information briefs; performing research as required; and maintaining information about the characteristics and status of rural transit and inventory of specialized transportation providers.

Task I: Project Planning and Coordination

The recipient will assume primary responsibility for administration and management of the National RTAP. Subtasks include:

- Submitting to the FTA project manager, prior to the award of the cooperative agreement each year, for approval;
 - (1) A Work Plan, which specifies how the stated objectives of project will be met;
 - (2) a Management Plan, which sets forth how the project will be managed and who will be the key personnel involved; and
 - (3) a Budget Plan, which specifies what will be the costs associated with the project.
- Submitting a progress report after each project quarter, and a final project report at the end of the project year;
- Ensuring the integration of all projects tasks;
- Coordinating and implementing a comprehensive set of activities designed to encourage use of National RTAP program products and services. Special goals will be the preparation on a regular basis of "press release" type articles that can be used by state and other national organizations to promote National RTAP products, and maintenance of appropriate promotional materials that can be distributed at state and national conferences.

Task II: Development and Promotion of Training Materials

The recipient will develop and disseminate training materials designed for use by rural transit providers. Subtasks include:

- Developing, field testing, and disseminating to the state RTAP's training packages or courses designed for use by rural transit providers. Selection of topics shall be guided by and consistent with the identified training needs of rural transit providers and the state RTAP activities. Prior to beginning developmental work on any training package, the recipient shall submit to FTA for its approval a plan for the development of the package. The plan shall include an overview for each of the component parts to be produced as part of training package, a time line for development and final production and a budget. This task may include development of courses for delivery by the National Transit Institute (NTI) or other organizations (e.g. Tribal Technical Assistance Program (TTAP)).
- Identifying and reviewing training materials that are being developed outside of the National RTAP, especially by states under the RTAP state program and by private vendors. Maintain information on new and currently available materials in a regularly updated catalogue of existing training materials, made available to state DOTs and others through appropriate means, including electronic dissemination.
- Promoting the RTAP training packages. Activities include preparing articles for use in state and national publications to announce the package for distribution through the RTAP state program and at national, regional and state meetings; and conducting demonstration workshops at selected national and regional meetings to build the capacity of state and system level personnel to facilitate the sound delivery of the training packages.

Task III: Support for State Administration of RTAP

The recipient will establish a liaison relationship with the state RTAP managers to ensure that the products developed and activities undertaken through the National RTAP are useful to and supportive of the state programs, promote information exchange at all levels, and encourage coordination of state efforts. Specific subtasks include:

- Provide a forum for networking with state RTAP managers while establishing communication for information dissemination (i.e., newsletter or bulletin). The recipient will report on national and state

program accomplishments and activities.

- Promoting and participating in three or four RTAP regional meetings annually, to share information about RTAP products and other relevant FTA initiatives.
 - Assisting state DOTs to evaluate the benefits of their state RTAP activities. This effort will provide information to FTA on how well the RTAP program is working to meet the program goals and objectives.
 - Providing individualized technical assistance to state RTAP managers as requested by the state or by FTA.
- In undertaking these subtasks, the recipient will work to assure that activities are complementary and not duplicative.

Task IV: Outreach and Coordination With other Organizations Involved with Rural Transit

The recipient will coordinate with other organizations involved with rural public transportation and related interests to avoid duplication of efforts and to draw on these organizations' networks to promote National RTAP products and services. Specific subtasks that will be undertaken by the recipient will include:

- Participating in conferences, workshops, and meetings of other national and regional organizations both to learn about their activities and to promote FTA RTAP.
- Staying informed about other national rural transportation assistance activities within and outside FTA.
- Participating in the Transportation Research Board (TRB) biennial National Conference on Rural Public and Intercity Bus Transportation.
- Coordinating activities with the FHWA Local Area Technical Assistance Program (LTAP and TTAP).
- Coordinating with other FTA-funded technical assistance centers, and participating in the National Consortium on Human Service Coordination (National Consortium) and the National Resource Center for Human Service Transportation Coordination (NRC).

The recipient will consult with the FTA project manager as to the appropriate form of support for each of these activities.

Task V: RTAP Rural Resource Center

The recipient will maintain a national clearinghouse for rural public transportation technology sharing and information dissemination, a central collection of products and services that are useful to rural transit professionals. The recipient will promote and monitor

usage of the RTAP rural resource center. Specific activities under this task include:

- Collecting and maintaining relevant information resources, training and technical assistance materials, and contacts and referrals, and developing expertise about issues of concern to the rural transit community;
- Operating a telephone hotline information service, which provides timely response to questions and requests for information;
- Developing and providing electronic access to information resources maintained at the center;
- Disseminating information on new rural public transportation technical assistance and training materials and updated databases;
- Collecting and disseminating materials created by the state RTAP's;
- Monitoring rural transit-related legislation and regulations and preparing timely summaries for dissemination;
- Researching and preparing information and technical assistance briefs to fill identified gaps in available information resources in response to time-sensitive issues and areas of common interest;
- Promoting and monitoring the effectiveness of the resource center's products and services through regular reports of center use statistics; promotion in publications widely read by the target audience; participation in national, regional and state meetings; dissemination of materials about the center; and telephone surveys of operators or other feedback mechanisms such as postage-paid comment cards included with center mailings.

Task VI: Rural Transit Database

The recipient is responsible for maintaining the database of FTA-funded rural and specialized systems. Subtasks include:

- Maintaining an accurate and up-to-date inventory of subrecipients under FTA's Elderly and Persons with Disabilities Program (Section 5310) in coordination with the National Senior Transportation Center.
- Preparing profiles and analyses based upon the data submitted to the FTA rural NTD, and creating resource materials based on the data.

Task VII: Peer-to-Peer Networking

The recipient will develop and implement a national self-help technical assistance network that facilitates the exchange of technologies and techniques among rural transit operators on a peer-to-peer basis. Specific subtasks include:

- Identifying expert peers in areas of current interest on a continuing basis;
- Setting up technical assistance workshops to utilize a peer-to-peer network efficiently, in coordination with regularly scheduled meetings of national, state, and regional groups;
- Matching peers with those needing assistance on a one-to-one basis;
- Encouraging and facilitating peer-to-peer exchange and providing support services to promote peer assistance.

Task VIII: Research and Technical Support

The recipient will provide a research and technical support capacity to FTA to address issues of immediate concern to the rural transit programs. Examples of specific subtasks to be performed at the request of the FTA project manager could include, but are not limited to:

- Preparing issue papers or reports in response to FTA requests;
- Convening a focus group or small meeting on a specific topic;
- Compiling data.

Task IX: Maintain Mechanism for User Input and Feedback

The recipient will maintain a mechanism for user input and feedback such as the program review board. Historically, the review board has functioned as the mechanism for providing the national program with guidance on priority needs in the areas of training materials development, information dissemination, and technical assistance. If project funding is insufficient to support the review board, an alternative mechanism should be developed. Specific subtasks include:

- Convening no more than two (2) official meetings of the board each year of the project. One official meeting must be held in Washington, DC. The second meeting may be held at the TRB Biennial National Conference on Rural Public and Intercity Bus Transportation or another national meeting. All official review board meetings will be approved by the FTA project manager. The board, or alternative mechanism, will function to:
 - Provide the national program with guidance on priority needs in the areas of training material development, information dissemination, and technical assistance.
 - Oversee the quality of national program products and services.
 - Promote the national program to States and operators.

The following principles have been developed to guide the review board:

- The review board will be limited to 15 or fewer members—roughly half transit providers and half State DOT

representatives. In the event that a board member is no longer employed by a nonurbanized transit provider or State transit agency (including Tribal rural operators), there shall be an automatic vacancy for that individual's position on the board.

- Review board membership shall be of limited duration and regular rotations shall occur, so that continuity is maintained.

- The recipient shall conduct an appropriate orientation for new board members, including an introduction to the project's history, goals and objectives and current status, and provide relevant materials including summaries of past board-meetings, information on board-member roles and responsibilities, and other relevant information.

Task X. Project Management and Administration

a. The recipient shall meet with the Project Officer and task order monitor within ten (10) working days after issuance of the task order to discuss the objectives of the cooperative agreement and any related projects.

b. The Project Coordinator of the RTAP shall submit quarterly progress reports to the FTA project manager. The reports shall include the following items and provide information relevant for the particular period:

Sample Format for Progress Report

Goal:

Objective:

- Objective's Total Budget
- Expenditures this quarter, this objective
- Total expenditures, this objective. (The expenditures reported on the account, shall match the progress of the project.)

Status as of : _____

(end date of reporting period)

Activity Planned (Relative to Project Task Elements, Indicators and Milestone Activities):

Actual Activity (Relative to Project Task Elements, Indicators and Milestone Activities):

Difficulties Encountered: (as applicable, should include information on specific reasons why goals and objectives or milestones were not met, and analysis and explanations of costs overruns)

- Goal/Objective or Milestone Not Met:
- Problem(s):
- Resolution/corrective action plan and schedule:

Activity anticipated for next reporting period:

	Budget	Expended Q1	Expended Q2	Expended Q3	Expended Q4	Balance
Task 1						
Task 2						
Task 3						
Task 4						
Task 5						
Task 6						
Staff Travel						
Consultant Services—						
Ambassadors						
Salaries, fringe, indirect, direct administrative costs						
Total						

Contact Information: All documentation for the project, financial and administrative, shall be forwarded to: Pamela Brown, Project Manager, Federal Transit Administration, 1200 New Jersey Ave., SE, 4th Floor, Room E43-465, Washington, DC 20590, 202-493-2503, Pamela.Brown@dot.gov.

V. Evaluation Criteria

The following evaluation criteria will be used to rate all proposals responding to this announcement, listed in descending order of relative importance:

1. Technical approach.
2. Qualifications and experience of the organization and its personnel.
3. Program management capability.
4. Application review information.

Award of this cooperative agreement will be determined by the proposal that offers to provide the greatest value to the beneficiaries of the FTA RTAP in terms of performance rather than the proposal offering the lowest price. Applicants may propose to provide some or all of the services listed in the tasks described in the Scope of Work above. FTA reserves the right to award one or more cooperative agreements.

1. Technical Approach

The overall technical approach to the requirements of the statement of work will be examined. Particular attention will be given to the proposer's understanding of the objectives of the National RTAP and how those objectives will be met by their proposal. The proposal should respond to the specific requirements of the statement of work and clearly explain how those requirements will be accomplished.

2. Qualifications and Experience of the Organization and Its Personnel

The nonprofit organization must demonstrate that it has a broad based constituency and purpose relevant to rural public transportation interests. The individual qualifications and work experience of proposed project personnel will be carefully examined. The organization must show that it will be able to assign employees with a variety of skills and knowledge which include: Familiarity with rural operational issues facing both public and private transportation operators; experience in dealing with innovative solutions to rural transportation needs; knowledge of current Federal policy initiatives; demonstrated ability to develop and implement a broad program of rural technical assistance; knowledge of information dissemination techniques and training and technical assistance methodology; and organizational skills to coordinate the diverse individuals and organizations involved in such a program.

FTA is particularly interested in proposals for this cooperative agreement from national non-profit organizations with demonstrated capacity in State and community transportation and rural public transportation services. A strong applicant has the following characteristics:

- Demonstrated track record for managing large scale projects.
- Exhibits strong analytical skills.
- Performance based organization with an entrepreneurial approach to problem solving.
- Ability to breathe new life into a program by creating something new or revamping an existing structure.

3. Program Management Capability

The proposal should indicate a strong capability for managing an active and varied rural technical assistance program. Experience in working with rural transportation professionals from local, city, county, state, and Federal government, public and private operators and volunteer organizations is an important requirement. The organization should also demonstrate coalition building and organizational development skills. In addition, the proposal should indicate experience in managing and monitoring subrecipients and contractors, if any are included in the proposal. The recipient selected must be an eligible recipient of a cooperative agreement with FTA and be able to sign the required certifications and assurances and cooperative agreement.

4. Application Review Information

An FTA review panel will be convened to review each proposal. Project proposals will be evaluated based on the following criteria and scoring system:

1. Staff qualifications, which includes experience in delivering technical assistance and training, knowledge of human service transportation, demonstrated process skills in assessment, strategic planning, facilitation, and other key areas associated with identified tasks. The entity shall also address a plan for knowledge retention. (15%).
2. Capacity of the organization, which includes clearinghouse functions, Web development and maintenance, technical assistance, training, long distance and on-site intervention

strategies, and other, identified tasks. (15%).

3. Understanding and reasonability of proposed goals, objectives, methodologies, activities, timelines, deliverables, and budget. (40%).

4. Plan to collaborate with stakeholders and establish effective partnerships to implement tasks. (20%).

5. Plan for evaluation and data collection. (10%).

6. FTA may elect to meet in person two or three of the most qualified applicants.

This meeting will be held at the Department of Transportation, in Washington, DC. The applicants will be notified of a date and time during which they will be asked to present their proposal to the FTA review panel. If an entity proposes to perform an individual task or tasks less than the full project, the proposal will be evaluated accordingly on its merits. If selected, the proposer may be asked to form a consortium with the applicant chosen to manage the larger project

VI. Proposal Content

Proposals shall be submitted in double-spaced format using Times New Roman 12 point font. The application must contain the following components:

1. Cover sheet (1 page): Includes entity submitting proposal, principal investigator, title, and contact information (e.g., address, phone, fax, and E-mail). Name and contact information for the entity, key point of contact for all cooperative activities (if different from principle investigators).

2. Abstract (2 pages): Abstract shall include background, purpose, methodology, intended outcomes, and plan for evaluation.

3. Detailed budget proposal and budget narrative.

4. Project narrative (not to exceed 75 pages): Project narrative shall include the following information:

a. Staff qualifications, include experience in providing technical assistance and implementing the other tasks outlined in the solicitation. The proposal shall also include the proposed staff members' knowledge of issues related to human service transportation. One page biographical sketches for staff members shall be included in the appendices section of the proposal;

b. Existing and future capacity of organization to address the issues outlined in the proposal and ability to implement tasks I–X outlined under Section IV. (Scope of Work) in this solicitation;

c. Methodology for addressing tasks I–X outlined under Section IV. in this solicitation. The proposal shall also

include objectives, activities, deliverables, milestones, timeline and intended outcomes for achieving the goals outlined in the scope for the first year;

d. Plan to work with stakeholders and build partnerships at the national, State, and local levels;

5. Project Management Plan that includes well defined objectives, tasks, activities, timelines, deliverables, indicators, and outcomes.

6. Plan for evaluation of RTAP activities and data collection.

7. Supplemental materials and letters of support can be included in an appendices section that is beyond the 75 page limit. In addition to the full proposal, entities have the option to submit supplemental material such as: Brochures, publications, products, etc. These materials shall be delivered to Pamela Brown, Federal Transit Administration, 1200 New Jersey Avenue, SE., 4th Floor—East Building, Room E43–465, Washington, DC 20590.

VII. Instructions

1. Submit five copies of proposal to the following address: Federal Transit Administration, TPM–5, Office of Program Management, United We Ride Office, 1200 New Jersey Avenue, SE., 4th Floor—East Building, Room E43–465, Washington, DC 20590, Attn: Pamela Brown; or apply through Grants.Gov.

2. Proposals must be received no later than 5:30 p.m., EDT, April 28, 2008

3. Technical questions and requests for clarifications may be addressed to Lorna R. Wilson at 202–366–2053.

4. The recipient will be selected and the candidates notified approximately two months after the application deadline.

5. The recipient selected will be asked to submit an application for a cooperative agreement by July 1, 2008, with funding of \$1,212,000 for the first year anticipated to be awarded before October 30, 2008.

VIII. Award Information

FTA reserves the right to fund one or more cooperative agreements for a five year award. Year one of the cooperative agreement is for \$1.212 million. The anticipated notification date is the Spring of 2008, with an anticipated starting date for the successful applicant of July, 2008. Subsequent annual funding will be based on annual appropriations. FTA recipients with existing FTA projects are eligible to complete for this cooperative agreement.

The FTA will participate in activities by attending review meetings, commenting on technical reports,

maintaining frequent contact with the project manager, approving key decisions/activities and negotiating any redirecting activities if needed.

IX. Award Administration Information

The anticipated notification date for the award of this cooperative agreement is Spring of 2008, with an anticipated start date for the successful applicant by late Spring. FTA will notify the successful entity. Following receipt of the FTA Administrator's notification letter, the successful entity will be required to submit its proposal through the FTA Transportation Electronic Award Management (TEAM) system Web site. FTA will manage the cooperative agreement through the TEAM system Web site. Before FTA may award Federal financial assistance through a Federal cooperative agreement, the entity must submit all certifications and assurances pertaining to itself and its project as required by Federal laws and regulations. Since Federal FY 1995, FTA has been consolidating the various certifications and assurances that may be required of its awardees and the projects into a single document published in the **Federal Register**. The FY 2008 Annual List of Certifications and Assurances for FTA Cooperative Agreements and Cooperative Agreements and Guidelines will be published in the **Federal Register** and posted on the FTA Web site at <http://www.fta.dot.gov>.

Issued in Washington, DC, this 21st day of February, 2008.

James S. Simpson,
Administrator.

[FR Doc. E8–3604 Filed 2–25–08; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–21025]

Fenway Partners Capital Fund III, L.P., and Coach America Holdings, Inc.—Control—Lakefront Lines, Inc., and Hopkins Airport Limousine Service, Inc.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice Tentatively Approving Finance Transaction.

SUMMARY: On February 1, 2008, Fenway Partners Capital Fund III, L.P. (Fenway), a noncarrier, and Coach America Holdings, Inc. (Coach America) (collectively, applicants), a noncarrier, have filed an application under 49 U.S.C. 14303 to acquire control of

Lakefront Lines, Inc. (Lakefront), and Hopkins Airport Limousine Service, Inc. (Hopkins), both of which are federally regulated motor carriers of passengers. Persons wishing to oppose this application must follow the rules at 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by April 11, 2008. Applicants may file a reply by April 28, 2008. If no comments are filed by April 11, 2008, this notice is effective on that date.¹

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC-F-21025 to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, send one copy of comments to the applicants' representatives: Charles A. Spitulnik and Allison I. Fultz, KAPLAN KIRSCH & ROCKWELL LLP, 1001 Connecticut Avenue, NW., Suite 905, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, (202) 245-0359 [Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339].

SUPPLEMENTARY INFORMATION: Fenway is a Delaware limited partnership associated with Fenway Partners, Inc. (Fenway Partners), a private equity firm that invests in numerous different businesses, including other transportation-related entities, through various limited partnerships and other investment entities. Fenway Partners has \$2.1 billion under management. Fenway owns over 70% of the stock of Coach America.

Coach America, a noncarrier Delaware corporation, controls 29 motor carriers of passengers through its subsidiaries, Coach America Group, Inc., and KBUS Holdings, LLC.²

Lakefront, an Ohio corporation, is a federally regulated motor carrier (USDOT Number 120685 and ICC MC/MX 121599) that provides interstate and intrastate passenger transportation service. All of the issued and outstanding stock of Lakefront is owned

by Jack Goebel, Mike Goebel, and Thomas Goebel, with a small number of preferred non-voting shares owned by other Goebel family members. Hopkins, an Ohio corporation, is also a federally regulated motor carrier (USDOT Number 1213222) that provides interstate and intrastate passenger transportation service. Hopkins is a sister company of Lakefront and is also owned by the Goebel family.

Coach America will establish Lfrnt Acq Corp. (Lfrnt), a Delaware corporation and wholly owned subsidiary of Coach America. Lfrnt will purchase 100% of the issued and outstanding capital stock of Lakefront and Hopkins. Lfrnt will manage the newly acquired companies. No operating authorities will be transferred as a result of the transaction. Lakefront and Hopkins had gross operating revenues for the 12-month period ending December 31, 2007, greater than the \$2 million threshold required for Board jurisdiction (combined gross revenues of approximately \$34 million in 2007).

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction found to be consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicants have submitted information, as required by 49 CFR 1182.2, including the information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). They state that the proposed transaction will have no impact on the adequacy of transportation services available to the public, that the proposed transaction will not have an adverse effect on total fixed charges, and that there will be no material adverse impact on the employees of the Coach America-controlled carriers. Additional information, including a copy of the application, may be obtained from the applicants' representative.

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated, and unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect

automatically and will be the final Board action.

Board decisions and notices are available on our Web site at: <http://www.stb.dot.gov>.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed finance transaction is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this notice will be deemed as having been vacated.

3. This notice will be effective April 11, 2008, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Room 8214, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Decided: February 20, 2008.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8-3580 Filed 2-25-08; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC-F-21024]

Fenway Partners Capital Fund III, L.P. and Coach America Holdings, Inc.—Control—Renzenberger, Inc.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice Tentatively Approving Finance Transaction.

SUMMARY: On February 1, 2008, Fenway Partners Capital Fund III, L.P. (Fenway), and its subsidiary, Coach America Holdings, Inc. (Coach America)¹

¹ Fenway owns 70% of the stock of Coach America. Coach America currently controls through intermediate subsidiaries the following federally regulated motor carriers of passengers: America Charters Ltd.; American Coach Lines of Atlanta, Inc.; American Coach Lines of Jacksonville, Inc.; American Coach Lines of Miami, Inc.; American Coach Lines of Orlando, Inc.; CUSA, LLC; CUSA ASL, LLC d/b/a Arrow Stage Lines; CUSA AT, LLC

Continued

¹ In their application, Applicants request expedited handling of the application, and request that the Board publish the notice within 25 days to enable the parties to minimize the risk of further credit market disruption, reduce uncertainty felt by workers, and to ensure the benefits of the transaction, including enhanced customer service levels.

² Fenway and Coach America have also filed an application under 49 U.S.C. 14303 to acquire control of Renzenberger, Inc., a Kansas corporation and a federally regulated motor carrier of passengers, in *Fenway Partners Capital Fund III, L.P., and Coach America Holdings, Inc.—Control—Renzenberger, Inc.*, STB Docket No. MC-F-21024.

(collectively, Applicants), both noncarriers, filed an application under 49 U.S.C. 14303 to acquire control of Renzenberger, Inc. (Renzenberger) (MC-170517). Applicants propose to acquire control via a stock purchase by RZB Acq Corp. (Acquisition Corp.), a corporation formed by Coach America (and thus a wholly owned subsidiary of Coach America). Acquisition Corp. will acquire 100% of the issued and outstanding stock of Renzenberger. Renzenberger will continue to operate as a separate entity. Persons wishing to oppose this application must follow the rules at 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by April 11, 2008. Applicants may file a reply by April 28, 2008. If no comments are filed by April 11, 2008, this notice is effective on that date.²

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC-F-21024 to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, send one copy of comments to Applicants' representative: David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Avenue, NW., Washington, DC 20036-1795.

FOR FURTHER INFORMATION CONTACT: Julia Farr (202) 245-0359 [Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339].

SUPPLEMENTARY INFORMATION: Fenway is a noncarrier Delaware limited partnership. Fenway is affiliated with Fenway Partners, Inc., a private equity

d/b/a Americoach Tours; CUSA AWC, LLC d/b/a All West Coachlines; CUSA BCCAE, LLC d/b/a Blackhawk-Central City Ace Express; CUSA CC, LLC d/b/a Coach USA Los Angeles; CUSA CSS, LLC d/b/a Crew Shuttle Services; CUSA EE, LLC d/b/a El Expreso; CUSA ELKO, LLC d/b/a K-T Contract Services Elko; CUSA ES, LLC d/b/a Express Shuttle; CUSA FL, LLC d/b/a Franciscan Lines; CUSA GCBS, LLC d/b/a Goodall's Charter Bus Service; CUSA GCT, LLC d/b/a Gulf Coast Transportation; CUSA KBC, LLC d/b/a Kerrville Bus Company; CUSA K-TCS, LLC d/b/a Coach USA and d/b/a Gray Line Airport Shuttle; CUSA K-TCS, LLC d/b/a Arizona Charters; CUSA PCSTC, LLC d/b/a Pacific Coast Sightseeing Tours & Charters; CUSA PRTS, LLC d/b/a Powder River Transportation Services; CUSA RAZ, LLC d/b/a Raz Transportation Company; Dillon's Bus Service, Inc.; Florida Cruise Connection, Inc. d/b/a Cruise Connection; Midnight Sun Tours, Inc.; Southern Coach Company; and Southern Tours, Inc.

² In their application, Applicants request expedited handling of the application, and request that the Board publish the notice within 25 days to enable the parties to minimize the risk of further credit market disruption, reduce uncertainty felt by workers, and to ensure the benefits of the transaction, including enhanced customer service levels.

firm with \$2.1 billion under management. Fenway Partners, Inc., invests in numerous different businesses, including other transportation-related entities, through various limited partnerships and other investment entities. Fenway controls carriers through its subsidiary, Coach America.

Coach America, a noncarrier Delaware corporation, controls 29 federally regulated motor carriers through its subsidiaries Coach America Group, Inc., and KBUS Holdings, LLC.³

Renzenberger is a Kansas corporation and a federally regulated motor carrier of passengers. It has operating authority to transport passengers in: (1) Contract carriage with rail carriers for their crews; (2) nationwide common carrier charter and special operations; and (3) common carrier service over specified regular routes in Nebraska, Iowa, Colorado, and Kansas. Renzenberger operates more than 1,500 vehicles in more than 20 states.⁴ The gross revenue of Applicants' carriers and Renzenberger exceed the \$2 million jurisdictional threshold of 49 U.S.C. 14303(g).

To consummate the transaction, Coach America will establish Acquisition Corp., a Delaware corporation and wholly owned subsidiary of Coach America. Acquisition Corp. will acquire 100% of the issued and outstanding capital stock of Renzenberger. Renzenberger will become a wholly owned subsidiary of Coach America and will therefore be under the control of Fenway. No operating authorities will be transferred as a result of the transaction.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction found to be consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicants have submitted information, as required by 49 CFR 1182.2, including the information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Applicants state that the proposed

³ Fenway and Coach America have also filed an application under 49 U.S.C. 14303 to acquire control of Lakefront Lines, Inc., and Hopkins Airport Limousine Service, Inc., Ohio corporations and federally regulated motor carriers of passengers, in *Fenway Partners Capital Fund III, L.P.*, and *Coach America Holdings, Inc.-Control-Lakefront Lines, Inc.*, and *Hopkins Airport Limousine Service, Inc.*, STB Docket No. MC-F-21025.

⁴ Renzenberger holds intrastate operating authority in 23 states.

transaction will not impact the adequacy of transportation services available to the public, that the proposed transaction will not adversely impact fixed charges, and that the interests of employees of Renzenberger will not be adversely impacted. Additional information, including a copy of the application, may be obtained from the Applicants' representative.

On the basis of the application, we find that the proposed acquisition is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated, and unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed finance transaction is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this notice will be deemed as having been vacated.

3. This notice will be effective on April 11, 2008, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Decided: February 20, 2008.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8-3582 Filed 2-25-08; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board**

[STB Ex Parte No. 290 (Sub-No. 4)]

Railroad Cost Recovery Procedures Productivity Adjustment**AGENCY:** Surface Transportation Board, DOT.**ACTION:** Proposed Adoption of a Railroad Cost Recovery Procedures Productivity Adjustment.

SUMMARY: The Surface Transportation Board proposes to adopt 1.008 (0.8%) as the measure of average change in railroad productivity for the 2002–2006 (5-year) averaging period. This value is a decline of 0.9 of a percentage point from the current measure of 1.7% that was developed for the 2001–2005 period.

DATES: Comments are due March 13, 2008.**EFFECTIVE DATE:** The proposed productivity adjustment is effective March 17, 2008.**ADDRESSES:** Send comments (an original and 10 copies) referring to STB Ex Parte No. 290 (Sub-No. 4) to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.**FOR FURTHER INFORMATION CONTACT:** Pedro Ramirez, (202) 245–0333. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on our Web site www.stb.dot.gov. To purchase a copy of the full decision, write to, e-mail or call the Board's contractor, ASAP Document Solutions; 9332 Annapolis Rd., Suite 103, Lanham, MD 20706; e-mail asapdc@verizon.net; phone (202) 306–4004. [Assistance for the hearing impaired is available through FIRS: 1–800–877–8339.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: February 20, 2008.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

Anne K. Quinlan,*Acting Secretary.*

[FR Doc. E8–3584 Filed 2–25–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0154]

Proposed Information Collection (Application for VA Education Benefits) Activity; 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 revision of a currently approved collection and allow 60 days for public comment in response to this notice. This notice solicits comments for information needed to determine a claimant's eligibility for educational benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 25, 2008.

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. 2900–0154" 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.

Titles:

- a. Application for VA Education Benefits, VA Form 22–1990.
- b. National Call to Service, VA Form 22–1990E.
- c. Transfer of Entitlement VA Form 22–1990N.

OMB Control Number: 2900–0154.**Type of Review:** Revision of a currently approved collection.**Abstract:**

- a. Claimants complete VA Form 22–1990 to apply for education assistance allowance.
- b. Claimants who signed an enlistment contract with the Department of Defense for the National Call to Service program and elected one of the two education incentives complete VA Form 22–1990E.
- c. VA Form 22–1990N is completed by claimants who wish to transfer his or her Montgomery GI Bill entitlement their dependents.

Affected Public: Individuals or households.**Estimated Annual Burden:** 49,399 hours.**Estimated Average Burden Per Respondent:** 20 minutes.**Frequency of Response:** One-time.**Estimated Number of Respondents:** 179,631.

Dated: February 12, 2008.

By direction of the Secretary.

Denise McLamb,*Program Analyst, Records Management Service.*

[FR Doc. E8–3535 Filed 2–25–08; 8:45 am]

BILLING CODE 8320–01–P



Federal Register

**Tuesday,
February 26, 2008**

Part II

**Department of
Health and Human
Services**

Administration for Children and Families

**45 CFR Part 1356
Chafee National Youth in Transition
Database; Final Rule**

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Administration for Children and Families****45 CFR Part 1356**

RIN 0970-AC21

Chafee National Youth in Transition Database

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Final rule.

SUMMARY: This final rule adds new regulations to require States to collect and report data to ACF on youth who are receiving independent living services and on the outcomes of certain youth who are in foster care or who age out of foster care. The final rule implements the data collection requirements of the Foster Care Independence Act of 1999 (Pub. L. 106-169) as incorporated into the Social Security Act.

DATES: *Effective Date:* April 28, 2008.

Compliance Date: A State must implement and comply with this rule no later than October 1, 2010.

FOR FURTHER INFORMATION CONTACT:

Kathleen McHugh, Director of Policy, Children's Bureau, Administration on Children, Youth and Families, 202/401-5789 or by e-mail at kathleen.mchugh@acf.hhs.gov.

SUPPLEMENTARY INFORMATION: The preamble to this final rule is organized as follows:

- I. Background
 - A. Legislative History
 - B. Rule Development
- II. The National Youth in Transition Database (NYTD)
 - A. Overview of Changes and Regulatory Provisions
 - B. Implementation Timeframes
 - C. Discussion of Non-Regulated Issues
- III. Section-by-Section Discussion of Final Rule
- IV. Impact Analysis

I. Background*A. Legislative History*

Each year thousands of young people are discharged from State foster care systems because they reach the age at which they are no longer eligible for out-of-home placement services. During the early 1980s, research and anecdotal evidence indicated that many young people who emancipated from foster care experienced numerous difficulties

in their attempts to achieve self-sufficiency. Rather than making a successful transition to living on their own, a significant percentage of these youth experienced homelessness, unemployment, victimization, and dependence on various types of public assistance.

In response to this problem, in 1986 President Reagan signed into law the Title IV-E Independent Living Initiative (Pub. L. 99-272). The law provided States with funding to make independent living services available to youth in foster care between the ages of 16 and 21. Several improvements were made to this law by the Foster Care Independence Act of 1999 (Pub. L. 106-169) signed by President Clinton on December 14, 1999. This law established the John H. Chafee Foster Care Independence Program (CFCIP) at section 477 of the Social Security Act (the Act). Compared to Public Law 99-272, the Foster Care Independence Act provides States with greater funding and flexibility to carry out programs to assist youth in making the transition from foster care to self-sufficiency. The legislation provides States with funding to identify and make available independent living services to youth "who are likely to remain in foster care" until at least age 18—thus removing the minimum age requirements for the receipt of independent living services. Public Law 106-169 also requires States to provide assistance and services to youth who age out of foster care, until age 21, and allows States to use part of their funding to provide room and board assistance to these youth. On January 17, 2002, President Bush signed into law the Promoting Safe and Stable Families Amendments of 2001 (Pub. L. 107-133), which provided States with funding specifically for post-secondary education and training vouchers for youth who are eligible for CFCIP services.

The Foster Care Independence Act of 1999 requires ACF to develop and implement a data collection system, in consultation with various stakeholders, to perform two functions: (1) Track the independent living services States provide to youth; and, (2) develop outcome measures that may be used to assess State performance in operating their independent living programs. With regard to services, the Act requires us to identify data elements to track the number and characteristics of children receiving services under section 477 of the Act and the type and quantity of services States provide. With regard to outcomes, section 477(f)(1) of the Act requires that we develop outcome measures, including measures of

educational attainment, receipt of a high school diploma, employment, avoidance of dependency, homelessness, non-marital childbirth, incarceration, and high-risk behaviors, and the data elements to track States' performance on the outcome measures. The law also requires that ACF impose a penalty in an amount that ranges from one to five percent of the State's annual allotment on any State that fails to comply with the reporting requirements. ACF must base a State's penalty amount on the degree of noncompliance (section 477(e)(2) and (3) of the Act).

B. Rule Development

In developing the rule we engaged in an extensive consultation process on the information that would comprise the NYTD. Our consultation included national discussion groups with child welfare agency administrators and independent living coordinators at the State, Tribal, and local levels; public and private agency youth service providers; technical assistance providers; child welfare advocates; group home staff and administrators; and current and former foster youth and foster parents. We also held conference calls with independent living coordinators and information technology managers from several States. Finally, we conducted a pilot test of the draft data elements in seven States and one Indian Tribe and formed a work group of national associations, resource centers and State and Tribal representatives to analyze the results of the pilot test.

After gathering the information from consultation and conducting further internal deliberations, we published a notice of proposed rulemaking (NPRM) on July 14, 2006 (71 FR 40346-40382) that outlined the National Youth in Transition Database proposal. During the 60-day comment period, we received 67 substantive and unduplicated letters containing approximately 225 comments and questions on the proposal. The commenters included representatives from 38 State child welfare agencies and 14 national child welfare organizations, associations or advocacy groups, among others.

We received widespread support for many of the general concepts of the NYTD, particularly the variety of service and outcomes data elements. Commenters had a number of suggestions for minor modifications or clarifications that they believed would enhance the rule and the NYTD. Commenters also raised a number of questions on matters that are beyond the scope of the NYTD proposal and final

rule. Most concerns from commenters centered around the timeframe for implementing the NYTD, the parameters of the reporting populations, cost and burden issues generally and particularly with regard to tracking youth who are no longer in foster care and the effect of penalties on State services and youth.

II. The National Youth in Transition Database

A. Overview of Changes and Regulatory Provisions

We did not significantly change the final NYTD from the proposal in most areas. Although many of the thoughtful comments led us to reconsider aspects of our proposals and make numerous technical revisions, we found compelling reasons to retain key elements of the NYTD. We were convinced to make changes in two major areas: (1) To extend the time States have to develop their information systems and internal procedures to be able to collect and report data to the NYTD, and (2) to exclude education and training vouchers from the Federal funds that are subject to a penalty if a State does not comply with the NYTD requirements. These major changes, along with all other changes, are discussed in more detail throughout the preamble. A final overview of the NYTD follows.

States will report to NYTD four types of information about youth: services provided to youth, youth characteristics, outcomes, and basic demographics. In terms of services, States will identify the type of independent living services or financial assistance that the State provides to youth. There are 11 broad service categories:

- Independent living needs assessment.
- Academic support.
- Post-secondary educational support.
- Career preparation.
- Employment programs or vocational training.
- Budget and financial management.
- Housing education and home management training.
- Health education and risk prevention.
- Family support and healthy marriage education.
- Mentoring.
- Supervised independent living.

The State also will identify the characteristics of each youth receiving independent living services, such as their education level and tribal membership.

In terms of outcomes, States must collect and report information on youth

who are or were in foster care that we can use to measure the collective outcomes of these youth and potentially assess the State's performance in this area. We will collect data on six general outcomes:

- Increase youth financial self-sufficiency.
- Improve youth educational (academic or vocational) attainment.
- Increase youth connections with adults.
- Reduce homelessness among youth.
- Reduce high-risk behavior among youth.
- Improve youth access to health insurance.

The States must survey young people who are or were previously in foster care regarding their outcomes information. States will collect information on these youth at three specific intervals: On or about the youth's 17th birthday while the youth is in foster care; two years later on or about the youth's 19th birthday; and again on or about the youth's 21st birthday. States must report on 19- and 21-year-olds who participated in data collection at age 17 while in foster care, even if they are no longer in the State's foster care system or receiving independent living services at ages 19 and 21. States will collect outcome information on a new baseline population of youth (17-year-olds in foster care) every three years.

Finally, States will identify basic demographic information, such as sex and race of each youth in each of the reporting populations.

States will report all four types of information (services, characteristics, outcomes if applicable in that year, and basic demographics) to the NYTD semi-annually on a Federal fiscal year basis. ACF will evaluate a State's data file against file submission and data compliance standards designed to ensure that we have quality data on youth. States that fail to achieve any of the compliance standards for a reporting period will be given an opportunity to submit to us corrected data. If a State's corrected data does not comply with the data standards, the State will be subject to a penalty in an amount that ranges from one to five percent of the State's annual CFCIP funding, depending on the level of noncompliance. The funds subject to a penalty will not include the State's education and training voucher allotment.

B. Implementation Timeframe

Implementation of the NYTD will occur on October 1, 2010. This means that a State must begin to collect data on October 1, 2010 (Federal fiscal year

(FFY) 2011) and submit the first report period data to us by May 15, 2011, in accordance with the NYTD requirements in this final rule. This later implementation date is in direct response to comments raised by stakeholders in response to the NPRM.

In the NPRM preamble, we indicated that States would have at least a year between issuance of a final rule and the implementation date of the NYTD. We did not establish a specific implementation date at that time. However, a large number of commenters who represented the perspectives of States, advocates and other stakeholders, believed that a year was not enough time to comply with the NYTD requirements for a number of reasons. We carefully considered the information provided to us through comment, and reviewed our rationale for the one-year implementation timeframe. We found that the commenters raised issues to us that we had not fully considered in developing our original estimates of how long States would need to comply with this rule and we agree that a change is warranted.

Most commenters stated that implementing the NYTD would require changes to a State's Statewide Automated Child Welfare Information System (SACWIS). These changes would take more time than we originally suggested because the NYTD provisions which relate to youth who are still in foster care or who are receiving independent living services must be incorporated into a State's SACWIS in accordance with existing SACWIS rules in 45 CFR 1355.53(b)(5)(iii) and ACF-OISM-001 (1995). Forty-four States are in some stage of SACWIS development or operation and would thus need to make these changes in their SACWIS.

SACWIS changes often require a State to develop and award contracts to implement new programming and design features and secure new funding. The commenters pointed out that tight State budgets and long lead times needed to secure State appropriations mean that States are not guaranteed funding or legislative approval to implement the NYTD quickly. These combined issues can lead to a protracted period before the State has in hand final approval to even start developing a system, let alone begin the work required to change data systems to accommodate the new data requirements. We agree with these points as our own experiences interacting with States that are attempting to secure funding for SACWIS confirm that internal State processes for obtaining funding for

information system changes, and then implementing system changes take a significant amount of time.

In addition to concerns about SACWIS or development of other information system capability, commenters registered significant uncertainty about States' ability to comply with the outcomes component of the NYTD in the suggested timeframe. This was of particular concern to States, given their inexperience with administering an outcomes survey over an extended time to youth who have left foster care. We have acknowledged throughout the NPRM and final rule process that the outcomes component is one of the most challenging aspects of the NYTD. As such, we believe that we must give States a sufficient opportunity to conduct planning activities and take advantage of technical assistance.

Most commenters suggested that a two to three year implementation timeframe is more reasonable. We agree that a minimum of two years to implement the requirements of the NYTD is justified and have set the compliance date as October 1, 2010 accordingly. Providing less time than two years will not serve us or the States well in our mutual goals to understand and serve youth better. The later implementation date is designed to ensure that States are prepared and able to submit quality data on youth independent living services and youth outcomes. In the first year of start-up activities, ACF plans to provide intensive technical assistance to support States as they assess their system design and development needs. During the second year of start-up activities, we plan to continue technical assistance, release technical documents on file and transmission procedures, and support States as they conduct voluntary tests of their systems.

All compliance standards and the associated penalties will take effect during the first year of implementation and will not be delayed further as some commenters suggested. We do, however, hope to encourage States to submit data to us voluntarily prior to the required implementation date. Doing so could mean that States are able to test their systems prior to the compliance date, and we in turn can begin providing technical assistance based on States' actual experiences. We intend to issue guidance on whether and how we may be able to accept voluntary data submissions prior to the compliance date.

C. Discussion of Non-Regulated Issues

We received a number of comments and questions on topics that are outside

the scope of this rulemaking. Such comments addressed general topics such as technical assistance requests, performance standards, ongoing consultation between various stakeholders on the CFCIP program and NYTD, technical questions about modifying SACWIS and strategies for tracking youth. The proper forum for these requests is through the ACF regional offices and our technical assistance providers.

III. Section-by-Section Discussion of Final Rule

Section 1356.80 Scope

This section requires the State agency that administers or supervises the administration of the Chafee Foster Care Independence Program under section 477 of the Social Security Act to comply with the data collection and reporting requirements in this final rule. We did not receive comments on this section. We made a minor modification to the section to include State agencies that "supervise the administration" of the CFCIP in addition to those that directly administer the program in the scope of these NYTD requirements. This modification brings the scope statement in line with the statutory requirements for an administrating or supervisory State agency in section 477(b)(2) of the Act.

Section 1356.81 Reporting Population

This section describes the three reporting populations of youth on whom States must obtain services and outcomes information to report to the NYTD: The served, baseline and follow-up populations.

Served Population

In paragraph (a), we describe the served population as youth who receive an independent living service paid for or provided by the State agency during a six-month report period.

Comment: A number of commenters sought clarity on which youth comprise the served population and asked whether specific subgroups were a part of the population. Specifically, commenters asked whether tribal youth, youth involved with the juvenile justice system, youth who receive services through the staff of a group home or child care institution, and youth no longer in foster care would fall within the served population.

Response: In general, a youth is in the served population if during the report period, the youth received at least one independent living service paid for or provided by the State agency. We are making a minor amendment to the final

rule to remove the reference to "services" as only one independent living service is required during the report period for the youth to be a part of the served population. An independent living service is provided by the State agency if it is delivered by State agency staff or an agent of the State, including a foster parent, group home staff, child care institution staff or the service is provided pursuant to a contract between the State agency and a provider, agency or any other entity regardless of whether the contract includes funding for the particular service. Independent living services that are paid for or provided by the State agency can be delivered in a variety of formats. The served population is not limited on the Federal level by age, foster care status or placement type, although State eligibility rules for their independent living programs may restrict which youth receive independent living services. Therefore, tribal youth, youth involved with the juvenile justice system, youth who receive services through foster care providers and youth no longer in foster care are a part of the served population if they receive an independent living service paid for or provided by the State agency during the report period.

Comment: Some commenters suggested that we gather data in some way on youth who do not receive independent living services. Some commenters suggested that we require States to identify and explain why subgroups of youth do not receive services, such as youth who were eligible for independent living services in the State and/or youth who are referred to independent living. Other commenters suggested that we capture information on youth who do not receive independent living services outside of the NYTD.

Response: In developing the NPRM, we considered and rejected an approach to require States to identify and explain why youth do not receive independent living services. We explained in the NPRM that the statute's mandate is limited to collecting data on independent living services that youth receive (section 477(f)(1)(B)(i) of the Act). We believe that gathering information on why youth do not receive independent living services is better suited to research or evaluation activities and therefore we are not making a change to the final rule in this regard. We want to be clear, however, that we have designed the outcomes component of the NYTD to look at the outcomes of youth whether or not they receive independent living services that are paid for or provided by the State

agency. This outcomes information can be used in conjunction with information from the Adoption and Foster Care Analysis and Reporting System (AFCARS) to tell us more about youth who do not receive independent living services and how they fare.

Comment: Some commenters urged us to expand the served population to include youth who receive independent living services that are brokered or arranged by the State agency through an agreement with other public or private agencies, rather than just those independent living services that are paid for or provided by the State agency. Commenters believed that broadening the scope of the served population would be in keeping with CFCIP State plan requirements to coordinate services with other Federal, State and local programs serving youth. Further, commenters suggested that including services that are arranged, brokered, or offered through collaboration would better reflect the range of independent living services youth may receive.

Response: We carefully considered the issues raised by commenters but are not convinced that the suggestions to expand the served population, for example, to include those youth served through collaborations, agreements or other State agency arrangements that are neither paid for nor provided by the State agency, offers a significant improvement to the NYTD. We recognize that States collaborate with community partners in a variety of ways to benefit youth as required under the CFCIP State plan. However, including youth served as a result of those collaborations or otherwise arranged or brokered by the State agency in the served population is too far removed from the statutory mandate to collect data on youth served under the CFCIP. Further, we believe that expanding the served population to include youth who receive independent living services in their community that are neither paid for nor provided by the State agency would distort what we can learn about the services provided under the CFCIP.

Rather, we are interested in a State collecting and reporting information on youth who receive an independent living service due to the State agency's commitment of funds or resources to provide the service. Therefore, an independent living service is provided by the State agency if it is delivered by State agency staff or an agent of the State, including a foster parent, group home staff, or child care institution staff. The service is also provided by the State agency if it is provided to the youth pursuant to a contract for such services between the State agency and a

provider, public or private agency or any other entity, regardless of whether the contract includes funding for the particular service. Services that are paid for directly or indirectly by the State agency are included as well. We believe this definition of the served population is sufficiently broad, and, as such, are retaining the served population description as stated in the NPRM.

Comment: A commenter thought the served population definition was too broad and suggested that we limit it to foster care youth and former foster care youth who are 17 years old and receiving independent living services.

Response: As we discussed in the NPRM, the statute is clear that we are to collect data on all youth who receive independent living services under the CFCIP and does not carve out youth in foster care or former foster care youth of a certain age. Further, narrowing the reporting population in such a way may limit the information we can learn about how States are serving youth through the CFCIP. As such, we are not making the suggested change to the served population.

Comment: Several commenters sought clarification on how the served population was distinct from or related to the baseline and follow-up population.

Response: The NYTD has two separate but related components: independent living services and youth outcomes. The reporting populations are separate for each component, although not mutually exclusive.

States are to collect and report independent living services information on youth who fall within the served population. The served population is made up of youth who have received at least one independent living service that is paid for or provided by the State agency during a six-month report period. The youth's age and foster care status is not relevant to whether he or she is in the served population.

States are to collect and report outcomes information on youth who are in the baseline and follow-up populations. The baseline population is comprised of all 17-year-olds in foster care during a year in which such outcomes data is due (beginning in FFY 2011), regardless of whether the youth receives any services. The follow-up population is a subgroup of the baseline population: Youth who participated in the outcomes data collection when they were 17 years old, but who are now 19 or 21 years old. A few simple examples (that do not address sampling) illustrate how the reporting populations may overlap or diverge:

- *Example 1.* In December 2010, a youth turns 17 years old while in foster care and takes a budgeting class that is paid for by the State agency in January 2011. This youth would be part of the served population for the first report period of FFY 2011 (October 1, 2010 through March 31, 2011) and reported as receiving the "budget and financial management" service. The same youth would also be a part of the baseline population for whom the State must administer the outcomes survey. This is because FFY 2011 is a year in which the States must collect data on the baseline population, which is comprised of those youth in foster care who reach their 17th birthday in the FFY.

- *Example 2.* In November 2011, a different 17-year-old in foster care takes a budgeting class that is paid for by the State agency. This youth would be part of the served population for the first report period of FFY 2012. However there is no outcomes data collection due in FFY 2012, therefore, the youth is not in the baseline population.

- *Example 3.* In December 2012, the same youth from example 1 reaches 19 years old. By the end of March 2013, this youth had not received any independent living services that were paid for or provided by the State agency during the first report period (October 1, 2012 through March 31, 2013), so the youth is not a part of the served population. However, two years ago, this youth completed the outcomes survey as part of the baseline population. Therefore, the youth is a part of the follow-up population and the State is required to collect and report outcomes data for this youth.

Baseline Population

In paragraph (b), we describe the baseline population for the purpose of collecting outcome information as a youth who is in foster care as defined in 45 CFR 1355.20 and reaches his or her 17th birthday in FFY 2011, or reaches 17 in every third fiscal year following FFY 2011.

Comment: Some commenters raised questions and concerns about the lack of clarity in the description of the baseline population. Commenters requested specific guidance on whether the baseline population included youth in juvenile justice facilities, youth in placements of a short duration, youth placed in shelter care, youth in tribal custody, youth on trial home visits, youth in unlicensed, unapproved or unpaid placements, and youth who have run away from their foster care settings.

Response: We defined the baseline population as 17-year-olds in foster care

consistent with our regulatory definition of foster care in 45 CFR 1355.20 during a Federal fiscal year in which such data is required based on the implementation schedule. This means, that a youth will be in the baseline population if the youth is in foster care and 17 years old in FFYs 2011, or is in foster care and 17 years old in each third fiscal year following FFY 2011 (i.e., 2014, 2017, etc.). We made a minor change to the rule to specify the beginning fiscal year in which this data is required and the timetable upon which data on a new cohort of youth is due.

The baseline population includes 17-year-old youth who are in 24-hour substitute care under the State's placement and care responsibility who are in foster family homes (whether the foster parents are relatives of or unrelated to the child), group homes, shelter care and child care institutions, regardless of whether such homes or institutions are licensed, approved or paid. The baseline population includes children who may have run away from their foster care setting but who are still in the State agency's placement and care responsibility. The baseline population also includes youth who receive title IV-E foster care maintenance payments in the placement and care of another public agency (e.g., a juvenile justice agency or tribal agency) pursuant to a title IV-E agreement under section 472(a)(2)(B)(ii) of the Act.

The baseline population excludes youth in detention facilities, forestry camps, training schools and facilities primarily for the detention of youth adjudicated delinquent. The definition also excludes youth who are in the placement and care responsibility of a tribal agency unless the conditions specified above regarding title IV-E agreements apply. Youth who are at home but in the placement and care responsibility of the State agency also are excluded from the baseline reporting population, whether the State considers this a trial home visit, at-home supervision, after care or some other status. Since these youth are excluded from the baseline population, they are not in the follow-up population either.

We anticipate providing more detail through technical assistance and other guidance documents on how States may ensure that they are accurately including children in the baseline population.

Comment: Some commenters requested consistency between the NYTD baseline reporting population and the AFCARS foster care reporting population. One such commenter was concerned that an inconsistency would

diminish our ability to analyze data across the two databases.

Response: We do not believe that complete consistency between the NYTD baseline reporting population and the AFCARS foster care reporting population is necessary. AFCARS exists for a purpose separate and distinct from the NYTD. The AFCARS reporting population includes all children in foster care as defined in 45 CFR 1355.20 as does the NYTD, but extends slightly broader in specific circumstances, such as youth in detention and youth that are at home temporarily (see the ACF Child Welfare Policy Manual Section 2.7 at <http://www.acf.hhs.gov/programs/cb>). We are staying consistent with the definition of foster care for the NYTD to reflect part of the population of youth a State must serve under its CFCIP: Youth in foster care who are likely to age out of foster care. Further, one of the original reasons we chose the baseline reporting population was because it represents a readily accessible population of youth to whom States can administer the survey.

Finally, we do not agree that the slight differences between the AFCARS foster care and the NYTD baseline reporting populations diminish the analytic value of the NYTD. Since every youth reported in the baseline population will also be reported to AFCARS and the youth will be identified in the same way in both databases, we will have the necessary foundation for analysis of the foster care experiences of youth who are reported for their outcomes in the NYTD.

Comment: One commenter suggested that we specify that in order to be included in the baseline population a youth must have been in foster care for a minimum length of time to ensure that the youth had benefited from available independent living services.

Response: As we stated in the preamble to the NPRM, we decided not to require a minimum length of time in foster care because that approach overly complicated the data collection without a measurable benefit or a clear basis on which to determine the appropriate minimum length of time. We did not receive information that convinced us to change our approach and have not made this change to the final rule.

Comment: A commenter asked whether youth had to be in foster care on their 17th birthday to be included in the baseline population.

Response: A youth does not need to have his or her 17th birthday while in foster care, but consistent with the data collection rule in section 1356.82(a)(2), the youth must have been in foster care within 45 days following his or her 17th

birthday during the specified reporting year. More detailed guidance on the reporting populations will be forthcoming in technical assistance and policy documents, as needed.

Follow-up Population

Paragraph (c) defines the follow-up population as youth who turn 19 or 21 years old in a certain fiscal year who participated in the State's outcomes data collection as part of the baseline population at 17 years old.

Comment: Some commenters requested more clarity regarding the follow-up population or made statements that indicated their confusion about who was included in the population. A few other commenters asked specifically whether youth who remained in foster care at ages 19 and 21 would be in the follow-up population. Other commenters asked whether youth in the follow-up population at age 19 had to have participated in the outcomes data collection to be a part of the follow-up population at age 21.

Response: The follow-up population is comprised solely of youth who are either 19 or 21 years old who participated in the outcomes data collection as part of the baseline population at age 17. A youth is considered to have participated at age 17 if he or she provided at least one valid answer to a question in the outcomes survey. A youth who participated in the data collection at age 17, but not at age 19 for a reason other than being deceased remains a part of the follow-up population at age 21. A youth is in the follow-up population as described regardless of the youth's foster care status at ages 19 or 21 and regardless of whether the youth ever received independent living services.

Comment: A number of commenters wanted outcomes data collection to continue beyond age 21 to age 23 or older for a number of reasons. These commenters were concerned that we will get an incomplete view of college attendance and educational attainment, employment, marriage and other outcomes that are influenced by age if we stop collecting data at age 21. Alternatively, a commenter urged us not to extend the follow-up population of youth to age 23 unless there was demonstrable evidence that collecting such data was feasible.

Response: We appreciate the arguments in favor of an extended follow-up data collection activity and acknowledge that the system as designed may result in limited information on some of the more age-sensitive outcomes. However, as we

stated in the NPRM, we believe that adults who are 23 years old are even more likely to decline to participate in data collection and States are more likely to lose contact with much older youth. We received many comments that echoed these same concerns for 19- and 21-year olds. We believe that requiring States to collect outcomes information on an even older population is unreasonable and better suited for research or evaluation activities. Therefore, we are not adding an older follow-up population to the final rule.

Section 1356.82 Data Collection Requirements

This section specifies the data collection requirements for the served, baseline and follow-up populations.

In paragraph (a)(1), we require the State agency to collect information for the data elements specified in section 1356.83(b) and (c) for youth in the served population for as long as the youth receives services.

Comment: A couple of commenters supported the ongoing collection of client-level data on youth who receive independent living services.

Response: We agree that this is a valuable feature of the NYTD and are not making changes to the final rule.

In paragraph (a)(2), we require the State agency to collect information for the data elements specified in section 1356.83(b) and (d) for the baseline population. The State agency must collect this information on a new baseline population every three years and must collect this data within certain timeframes using specific survey questions.

Comment: A number of commenters supported the general concept of collecting outcomes information based on a staggered schedule with a new cohort of the baseline population (17-year-olds in foster care) beginning every three years. Two commenters suggested that we require States to reduce the time between the new cohorts of youth. Their concern was that the three-year span would lead to gaps in the data and would not be representative of youth receiving services or aging out of foster care.

Response: As we stated in the preamble to the NPRM, we chose this schedule in order to avoid imposing an unnecessary burden on States. Participants in the consultation process pointed out that youth outcomes generally do not change sufficiently to justify collecting the data annually, and collecting outcome data every three years should be sufficient to document trends and address the statutory

requirements. As such, no changes to the final rule are warranted.

Comment: A few commenters disagreed with the requirement to collect information on youth in the baseline population within 45 days following the youth's 17th birthday as required by section 1356.82(a)(2)(i) and (ii). One such commenter believed more time was needed to engage youth who may be resistant, who had run away, were institutionalized or incarcerated at the time of their 17th birthday. The commenters requested either a 90-day timeframe or the entire six-month report period to obtain the outcomes data from the youth.

Response: As stated in the preamble to the NPRM, we chose the 45-day timeframe as a compromise between requiring data collection to occur on the youth's 17th birthday and a longer timeframe which could lead to a less comparable baseline population. We still believe that the 45-day timeframe is responsive to the real-life scheduling constraints and does not create an unreasonable burden. We are, therefore, retaining the 45-day timeframe.

We would like to note, however, that youth who are incarcerated or are institutionalized in a psychiatric facility or hospital would not be a part of the baseline population because they are not in foster care according to the definition in 45 CFR 1355.20 (see earlier discussion on the baseline population). Youth who have run away from their foster care setting for the 45-day time span following their 17th birthday would be a part of the baseline population, but a State could report the youth as having run away in the outcomes reporting status element (section 1356.83(g)(34)) to explain why that youth's information was not collected.

In paragraph (a)(3), we require the State agency to collect information for the data elements specified in section 1356.83(b) and (e) for the follow-up population of 19- and 21-year-olds.

Comment: A number of commenters suggested that ACF should collect the outcome data and track the older youth rather than the States. In their view, this approach would resolve other concerns raised related to the State's burden to collect data and penalties for State non-compliance with the data collection, and could create consistency in outcomes data collection across the country.

Response: The statute mandates that we develop data collection requirements and impose penalties on States that do not comply with those requirements (section 477(e)(2) and (f) of the Act). As such, the statute creates an obligation

for States to meet the data collection requirements and not the Federal government.

Comment: A number of commenters asked practical questions about obtaining contact information for older youth. Specific inquiries included how to contact older youth who move out of State, using administrative databases to locate youth, or who would be the best individuals to administer the outcomes survey.

Response: We will provide States with policy guidance and/or technical assistance to address these issues. We do not believe that it is appropriate to address these concerns in regulation.

Comment: Some commenters were concerned that we did not regulate the method by which States must administer the outcomes survey to youth (e.g., in person, via the internet or over the phone). The concern was that this variability could impede data quality and limit the conclusions we could draw from the data.

Response: We acknowledge that the method a survey is administered may impact the quality of the data. However, we believe that States are too different to offer a single approach to this data collection and we are not in a position to regulate the best way to gather the data at this time. Further, we have set file and data standards for the data, including standards for youth participation, such that States will have an incentive to gather the best data possible (see discussion in section 1356.85). We hope to overcome any remaining challenges associated with survey variability through technical assistance rather than prescriptive rules. For these reasons, we are not regulating a specific data collection methodology in response to these comments.

Comment: A commenter was concerned about privacy rights or confidentiality issues that will make it difficult to track youth over time to complete the survey. Although information may be available about the youth through other systems, e.g., child support, the commenter asserts that the State cannot access that information because of confidentiality restrictions. The commenter requested that we address these issues.

Response: We do not believe that there are privacy or confidentiality concerns raised by the NYTD. The youth outcome survey is voluntary for the youth to complete, and it is up to the youth how much detailed contact information he or she will provide in order to be located upon exit from foster care. We understand that there may be information available to a State to locate the youth that can only be accessed with

the youth's permission. We will provide technical assistance to States to assist them in developing appropriate methods to track youth and garner youth participation.

In paragraph (b), we permit States to select a sample of 17-year-olds who participated in the outcomes data collection as a part of the baseline population to follow over time rather than the entire baseline population of youth who participated in the data collection in that State. When a State samples youth at age 17, the sample becomes the follow-up population and no further sampling of this population at ages 19 or 21 is permitted. Also in this paragraph we require a State to identify those youth in the follow-up population who are not in the sample.

Comment: A commenter believed that States should not use sampling but attempt to gather outcomes data from all 19- and 21-year-olds in the follow-up population. The commenter believed that this was a reasonable suggestion given that States were required to collect outcomes data on a staggered schedule.

Response: As stated in the preamble to the NPRM, we are providing States the option to sample in direct response to feedback we received during the consultation process. States requested that any outcomes survey of youth who had left foster care utilize sampling to mitigate the burden of tracking these youth. Nothing in the NYTD prohibits States that could track a subgroup of their follow-up population through sampling from collecting outcomes information on more youth or on the entire follow-up population. We are not making any changes to the final rule in response to this comment, however, we have made a change in paragraph 1356.82(b) to require States that sample to identify youth at age 19 who are not selected in the sample. This change is explained further in the discussion on section 1356.83(e).

Section 1356.83 Reporting Requirements and Data Elements

This section specifies the NYTD report periods, deadlines for reporting data to ACF and the data elements.

In paragraph (a), we require a State to submit the required data file to ACF on a semi-annual basis, within 45 days of the end of each report period.

Comment: A number of commenters offered alternative deadlines for submitting a data file to ACF that ranged from 60 to 90 days after the end of each report period. Some commenters cited concerns about having the same State workers prepare data files for the NYTD and simultaneously for AFCARS. A

couple of commenters believed that in order to generate a common identifier for youth reported to both AFCARS and the NYTD that a State would need to report their data to AFCARS first.

Response: Our experience has shown that States can meet the 45-day requirement for AFCARS and we expect States can meet it for the NYTD as well. We understand that States may use the same workers to extract files for AFCARS and the NYTD, but believe that 45 days is sufficient time to do both activities. Timely data is important so that ACF can conduct the analysis to share with the States and other stakeholders.

We do not believe the concern about common identifiers has merit. Although we are requiring a State to submit an identifier for a youth to the NYTD that is the same as the one submitted to AFCARS in certain circumstances, the way this is accomplished is through a standard encryption routine. When applied to a State identifier, the routine will generate the same encrypted result (i.e., the common identifier) each time. The act of submitting data to AFCARS or the NYTD is not what generates the common identifier so whether the data is submitted to AFCARS or the NYTD first is inconsequential. We are not making changes in response to this comment.

Comment: While one commenter supported the twice yearly reporting cycle, a number of other commenters suggested moving to an annual reporting cycle to reduce the burden on States. Some commenters believed that an annual report period would ease the burden of reporting data for States and ease penalty and outcome calculations for Federal officials. To keep the reporting cycles consistent with AFCARS, some commenters suggested moving AFCARS to an annual report period as well.

Response: As stated in the preamble to the NPRM, we considered a 12-month reporting period, but believed that a longer period increases the risk of inaccurate or missing data. Further, since we want to preserve our ability to analyze NYTD data along with AFCARS data, we want comparable reporting periods. The six-month report period for AFCARS is integral to a number of ACF priorities and legislative requirements.

Comment: A commenter suggested that local providers be allowed to report data directly to ACF without the involvement of the State agency in an effort to create additional efficiencies for States.

Response: We disagree with the suggestion to permit local providers to report a youth's data directly to the

Federal government, leaving out the State agency's involvement, for a number of reasons. The State agency is responsible for ensuring compliance with the NYTD requirements and standards under the risk of fiscal sanctions and, therefore, must be the responsible party for submitting data to ACF. Further, we do not believe that individual providers could ensure that all information on a youth (i.e., demographics, characteristics, services and outcomes, if applicable) could be reported in a single youth record as required by section 1356.83(f) if multiple providers have engaged a youth in a report period. Also, we do not see that such a process would be efficient for the State as it would have to maintain oversight of one or more entities that would submit information to ACF. However, States are not prohibited from contracting or otherwise working with private agencies to compile the information that States will ultimately submit to ACF. We are not changing the final rule to permit any entity other than the State agency to submit NYTD data to ACF.

In paragraphs (b) through (e), we require the State agency to report certain data elements for each youth depending on whether the youth is a part of the served, baseline, or follow-up populations.

We did not receive comments on these paragraphs. However, we are making a technical change to the reporting requirements for 19-year old youth in the follow-up population for those States that sample. In paragraph (e), we have amended the final rule to require a State that samples to identify the 19-year-old youth who participated in the outcomes data collection as part of the baseline population at age 17, who are not in the sample. This information is required so that we can determine whether the State meets the outcomes universe and participation rate standards (section 1356.85(b)). A State must identify such youth in the two semi-annual report periods for the Federal fiscal year in which the State reports actual outcomes information on 19-year-old youth who are in the sample (section 1356.83(g)(34)). States will not report information on non-sampled youth again when the youth reach the age of 21 years old.

This requirement stands in contrast to our proposal as described in the NPRM for a State to identify youth who will be in the follow-up sample at age 17. We proposed that States would report that information in a separate data element entitled "sampling status" for the semi-annual report periods in which baseline outcomes data is due on the 17-year-

olds (71 FR 40359 and 40361–2). However, the proposal was not viable because the sampling procedures in section 1356.84 require the State to select a sample based on a universe of all youth in a fiscal year who participate in the State's outcome data collection at age 17. Therefore, we erred in proposing that a State identify a sample at the end of each report period before the State could identify the appropriate and complete sampling frame of youth. The final rule provision for identifying youth who are not in the follow-up sample when such youth are aged 19 corrects this error. We don't expect this revision to be a concern to States as it will permit States more time to decide whether and how to sample.

In paragraph (f), we require the State agency to report all applicable data elements for an individual youth in a single record per report period. We did not receive comments on this paragraph and are not making changes to the final rule.

Data Element Descriptions

Paragraph (g) includes all of the data element descriptions for the NYTD.

State

In paragraph (g)(1), we request information on the State that reports the youth to the NYTD. We received no comments on this data element description and are not making any changes in the final rule.

Report Date

Paragraph (g)(2) describes the report date of the NYTD file which indicates the six-month period that the file encompasses. The report date is the month and year that corresponds with the end of the report period, which will always end on either March 31 or September 30 of any given year. We received no comments on this data element description and are not making any changes in the final rule.

Record Number

In paragraph (g)(3), we describe the record number as a unique, encrypted person identification number that the State must retain for the youth across all reporting periods. The State must use a consistent number for reporting the same youth to AFCARS and the NYTD.

Comment: A commenter noted that not all youth in the reporting populations will have an established common identifier. The commenter asserted that a State may need to conduct a labor-intensive and manual matching process to avoid identifying the same youth in multiple ways,

particularly for youth from the juvenile justice system.

Response: The State is required to use the same unique identifier for a NYTD youth as is used for AFCARS if that youth is or was in foster care in the State. The State is not required to use the same identifier used for the youth in other youth-serving systems. As we stated in the NPRM, this requirement is intended to allow us to perform case-level longitudinal cohort analysis. We believe the benefits of the usefulness of this data outweigh the burden on States to establish rules for a common identifier for youth across the NYTD and AFCARS data sets.

Date of Birth

In paragraph (g)(4), we require that a State report the youth's date of birth. We received no comments on this data element description and are not making any changes in the final rule.

Sex

In paragraph (g)(5), the State is to report the youth's sex.

Comment: Several commenters suggested that we not limit the data element on "sex" to male or female biology but permit youth to identify their sexual orientation and/or gender identity. These commenters believed that we should track youth services and outcomes for youth who identify themselves as gay, lesbian, bisexual, transgendered, or in some other way because such youth may be overrepresented in foster care, have unique service needs and be at increased risk for poor outcomes. Finally, a couple of commenters disagreed with our description of a youth's sex as his or her gender and recommended that we have an element that focuses on the youth's gender as a matter of identity separate from the youth's biological sex.

Response: We agree with the commenters that the words "sex" and "gender" are not synonymous. We are amending the regulation text to eliminate references to the youth's gender and instead refer to a youth's "sex" in reference to this element. However, we are not amending the data element to incorporate matters of gender identity or sexual orientation. This data element is for basic demographic purposes and we expect States to cull this information from its existing child welfare information system. The element is not intended to elicit from youth very personal information on sexual orientation, gender characteristics or sex development.

Race

In paragraphs (g)(6) through (g)(12) we describe the data elements in which a State must report the youth's race. These are separate elements that permit data collection and reporting on multiple races.

We received no comments on the race categories of Asian, Black or African American, Native Hawaiian or other Pacific Islander, and White and are making no changes to the final rule for those elements.

Comment: A couple of commenters noted that the description of American Indian or Alaska Native was the only race category that includes a condition of community affiliation. The commenters recommended that this condition be removed or that we provide additional guidance on categorizing persons who do not maintain tribal affiliation or community attachments but would otherwise consider themselves as American Indian or Alaska Native.

Response: We are not making a change to this element because it reflects the Office of Management and Budget's (OMB) definition of American Indian or Alaska Native (see OMB's Provisional Guidance on the Implementation of the 1997 Standards for Federal Data on Race and Ethnicity, at http://www.whitehouse.gov/omb/infogreg/re_guidance2000update.pdf) and is consistent with the AFCARS race category. Since race information is self-selected by the individual or the individual's parent, the person may choose the race category he/she believes best represents him/her.

Comment: A couple of commenters sought clarity on whether the race category of American Indian or Alaska Native includes youth who have an attachment or affiliation with a non-federally recognized tribe.

Response: The race category does include youth who identify with an American Indian or Alaska Native tribe regardless of whether that tribe is recognized by the Federal government. Because this race category is reflective of the OMB definition, we do not believe a change in the regulation text is warranted.

Comment: Several commenters were concerned that we proposed a race category of "declined" when there is not a comparable race category in either AFCARS or the National Child Abuse and Neglect Data System (NCANDS). These commenters noted that State child welfare information systems may not be programmed to record this information currently. The commenters also asked technical questions about

how they should report declined race information to AFCARS and NCANDS if they must make changes to their information systems.

Response: We have proposed a comparable change to the race categories in an NPRM on AFCARS published in the **Federal Register** on January 11, 2008. The changes to the AFCARS child race elements are described at 73 FR 2092 and 2130. NCANDS data is beyond the scope of this regulation.

Comment: A commenter noted that AFCARS does not permit a State to indicate that a person identifies with multiple races, including one which the person does not know and questioned whether there needed to be consistency for States reporting information across the data sets.

Response: As noted above, we have proposed regulatory changes to the AFCARS race elements to make this information comparable across the two data sets.

In reviewing this element, we noted the need to modify the final rule to remove the parenthetical remark that a youth or parent may be unable to communicate the youth's race "due to age, disability or abandonment." The phrasing of the parenthetical remark was unclear as to whom the conditions of age, disability or abandonment applied. Further, we believe that the statement confused the issue of self-identification of race information because it suggested that youth who were abandoned as infants or who were of a certain age would not be able to identify a race for themselves. Instead, we want to reaffirm that self-reporting or self-identification is the preferred method for a State to collect data on race and ethnicity. If this information is not available in a State's child welfare information system (i.e., collected for foster care purposes), the State should first solicit this information from a youth. If the youth is not able to communicate this information because of a severe disability or some other reason, the State should solicit race information from a parent. Once these avenues have been exhausted and these individuals have not been able to provide a response, the State may report the youth race as "unknown." Finally, we also modified the name of this element to be solely "unknown," as opposed to "unknown/unable to determine" to avoid confusion.

Hispanic or Latino Ethnicity

In paragraph (g)(13), we describe a youth of Hispanic or Latino ethnicity as a person of Cuban, Mexican, Puerto Rican, South or Central American, or

other Spanish culture or origin, regardless of race.

Comment: A couple of commenters raised a concern about reporting declined ethnicity information for the NYTD similar to their concerns regarding the race declined category.

Response: In the same AFCARS NPRM we mentioned above, we have proposed a comparable change to the ethnicity data. See the proposed changes at 73 FR 2092 and 2130.

Foster Care Status—Services

In paragraph (g)(14), we require a State to indicate whether a youth within the served population is in foster care consistent with the definition in 45 CFR 1355.20 at any point during the report period.

Comment: A commenter noted that some of the measures of permanency used in the Child and Family Services Reviews (CFSRs) are calculated based on the experiences of children who have been in foster care for eight or more days (71 FR 32969–32987, June 7, 2006 and 72 FR 2881–2890, January 23, 2007). The commenter requested that we consider using similar selection criteria for determining whether a youth in the served population is considered to be in foster care for NYTD purposes.

Response: We do not believe that the data selection rules we use for the purposes of calculating whether States achieve certain CFSR outcomes are appropriate for defining the parameters of the NYTD. We apply the 8-day exclusion for the purpose of the CFSR permanency measure and not as a condition for which children must be reported to AFCARS. For the NYTD we are requiring States to report data on a youth's receipt of independent living services and foster care status to permit us to determine appropriate performance measures at a later date which may or may not include selection rules. In other words, the data must be broad so that we have options for how to interpret and use the data.

We are not making any changes to this element description in the final rule. We would like to clarify here, however, that a youth is in foster care consistent with the definition of foster care in 45 CFR 1355.20, only if the youth has not yet reached the State's age of majority.

Local Agency

In paragraph (g)(15), we require a State to report either: (1) The county or equivalent jurisdictional unit that has primary responsibility for placement and care of a youth who is in foster care, or (2) the county with primary responsibility for providing services to a youth who is not in foster care. We

received no comments on this data element and are making only minor modifications to the language and adding a cross-reference to the definition of foster care in 45 CFR 1355.20.

Federally Recognized Tribe

In paragraph (g)(16), the State must report whether a youth is enrolled in or eligible for membership in a federally recognized tribe.

Comment: A few commenters requested more clarity on this element. In particular, commenters requested information on how to categorize youth whose eligibility or enrollment status is undetermined, how to report a youth who resides in a State without any federally recognized tribes and the overlap between this element and the race category of American Indian or Alaska Native.

Response: We are revising the name of the data element and the regulation text to clarify that we are seeking information on a youth's enrollment or eligibility for membership in a federally recognized tribe only. We understand that there may be a period of time in which the youth's tribal affiliation is undetermined, and if this remains the case when data reporting is due to us, the element should be reported as missing the information (i.e., a blank response). If a State is unsure about whether a youth meets the criteria for enrollment or is a member of the tribe, and the youth does not know this information, the State may contact the tribe(s) in question. Where a youth resides is irrelevant for determining whether the youth is eligible for membership or enrolled in a federally recognized tribe.

There are distinctions between this element and the race category of American Indian and Alaska Native. The race category is self-identified information and is indicative of how a person views him or herself and his affiliation with the original peoples of the Americas. The federally recognized tribe element focuses on either enrollment in or eligibility for membership in one of the over 560 federally recognized tribes only. The two categories, however, are not mutually exclusive.

Comment: A commenter suggested that a simpler description of the element we are interested in is whether the Indian Child Welfare Act (ICWA) applies for a youth.

Response: We disagree that the alternate suggestion to collect information on whether ICWA applies to a youth is a viable substitute for information on whether a young person

is enrolled in or eligible for membership in a federally recognized tribe. Narrowing the element to identify an ICWA-protected child would exclude youth over age 18 and those who are not involved in a custody proceeding before a State court from the NYTD population. As such, we are retaining this element as proposed.

Adjudicated Delinquent

In paragraph (g)(17), the State is to indicate whether a youth has been adjudicated by a Federal or State court as a juvenile delinquent.

Comment: Several commenters had concerns about the description of the data element “adjudicated delinquent.” One commenter suggested that we instead require States to report whether a youth had ever been involved with the juvenile justice system. Other commenters were concerned about overrepresentation of delinquent youth in the dataset and States being held accountable for the outcomes of delinquent youth who had spent brief periods in foster care.

Another concern was one of comparability as some States have eligibility criteria which restrict the availability of independent living services to certain delinquent youth.

Response: We have reviewed our description of an adjudicated delinquent and believe that it accurately depicts what we are most interested in measuring, that is, whether a court has found that the youth has committed an act of delinquency. We believe that capturing whether a youth is involved with the juvenile justice system is too broad and are not making this change to the final rule.

In terms of services information, States will report information on the youth to whom the State agency provides an independent living service that is paid for or provided by the State agency. In terms of outcomes information, States will report all 17-year-olds in foster care as the baseline population and follow these youth over time. To the extent that youth who fall within these population are also adjudicated delinquent, such youth simply reflect the composition of the State’s foster care and former foster care populations.

Finally, we believe that the concerns about comparability and accountability are premature, as we do not have State performance measures in place. We believe the information on youth characteristics will permit us to better interpret the data, elucidate where appropriate comparisons can be made, and guide how we measure State performance.

Educational Level

In paragraph (g)(18), we require the State to report the highest educational level attained by youth. We did not receive any comments on this data element or description and we are not making changes to the regulation text itself. However, we are changing the element name in Appendix A from “Last grade completed” to “Educational level” to match the regulation text.

Special Education Status

In paragraph (g)(19), the State is to indicate whether the youth is receiving special education, which is specifically designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability. We received no comments on this description and are not making changes to the final rule.

Discussion on General Issues With the Services-Related Elements

Commenters had general recommendations and concerns regarding the service elements in paragraph (g)(20) through (g)(33). We address the general comments here and subsequently address each element in (g)(20) through (g)(33) individually.

Comment: Several commenters reported concerns that we were not proposing to quantify service information overall and/or with regard to specific service data elements. Several proposals were offered to do so. The commenters urged us to require States to report service quantity in a variety of ways, such as the length of the service period, the frequency of the service, actual service hours, number of sessions attended, or the amount of financial assistance, as applicable. These commenters believed that we would enhance our understanding of the services if we quantified a particular youth’s service.

Response: We appreciate the commenters’ concerns about the manner in which we proposed to collect the quantity of service data, but we still believe that our rationale articulated in the NPRM for quantifying services in a broad sense is compelling. As we explained, we considered requiring States to quantify the hours of services, but discovered through the pilot test that caseworkers and supervisors spent enormous amounts of time locating this information. Workers had to estimate or guess how long a youth received a service, which led us to question the accuracy of such information. A similar concern exists with requiring States to provide general quantity information, such as number of sessions attended, days or weeks of a service, or service

frequency. Primarily, the wide variety of independent living service types, content and curriculum make this information unlikely to be comparable in a way other than the unit of measurement. Even dollar amounts of financial assistance can only be fully interpreted with accompanying information on how States and youth use those funds. We believe that our proposal for the State to report whether the youth has received a service within a report period meets the statute’s mandate regarding quantity and does not unduly burden workers for little clear benefit. Therefore, we are not making a change to the final rule to quantify a youth’s services further in any manner suggested.

Comment: A few commenters raised concerns that the service data elements are defined too broadly, and suggested that providing more detailed definitions would permit us to better differentiate the service provided to the youth.

Response: In developing the NPRM and conducting the pilot test, we found wide variations among States in the variety of independent living services available and provided to youth. We learned from States that collecting more detailed information on services would overburden caseworkers unnecessarily. We explained in the NPRM that these reasons led us to limit the service categories to eleven broad categories. While we acknowledge that we may not be able to analyze the data on individual services (e.g., distinctions between youth who receive vocational training and youth who undertake an apprenticeship) we believe that the categories are distinguishable enough to provide information about the types of independent living services youth receive as required by the law. We are not further separating the service category data elements in the final rule in response to this comment.

Comment: A commenter believed that the services component of the NYTD should include some information on youth satisfaction with independent living services.

Response: We believe that consumer satisfaction information exceeds the statute’s mandate to collect information on the number and characteristics of youth who receive independent living services and the type and quantity of those services (section 477(f)(1)(B) of the Act). Further, we believe that consumer satisfaction is best measured through program evaluation and not a national data collection.

Comment: Several commenters noted that service providers outside the State agency may typically pay or provide some of the independent living services

proposed and recommended that those services and providers be captured in NYTD.

Response: As stated earlier, we recognize that many State agencies collaborate and coordinate with other governmental agencies and private organizations that have their own resources to help youth achieve self-sufficiency. However, the statute requires us to collect information on those independent living services that the State provides under the CFCIP (section 477(f)(1)(B) of the Act). In the NPRM we took an expansive view of such services to include those that are provided by or funded by the State agency rather than strictly those services that are funded by the CFCIP allotment (see discussion at 71 FR 40349). As such, we believe that further extending the scope of this data collection to include any independent living service a youth may receive regardless of the source is too far removed from the statutory mandate. We are amending the service descriptions for several of the data elements to be clear that this data collection is limited to the purposes ascribed by law.

Independent Living Needs Assessment

In paragraph (g)(20), we require the State to report whether the youth received an independent living needs assessment, which is a systematic procedure to identify a youth's basic skills, emotional and social capabilities, and strengths and needs to match the youth with appropriate independent living services.

Comment: One commenter suggested a change in wording for the definition of independent living needs assessment to emphasize that the assessment identifies a youth's "strengths and training needs" instead of "strengths and weaknesses."

Response: We concur with the commenter that a change is warranted. Rather than the suggested language, however, we have amended the definition to read "strengths and needs," recognizing that the youth may also have other needs to be met by the program than training needs.

Comment: A commenter requested that the data element be changed to indicate whether the youth's needs assessment is still accurate and in effect at the time of the report period.

Response: We believe that a State reporting whether the youth received an independent living assessment within a six-month report period provides sufficient information for our purposes. The purpose of the element is to identify whether or not the State completed an assessment of the youth's

strengths and needs. Whether the report is current is not the primary issue. We believe that gathering information on the accuracy of an independent living service is beyond the scope of the NYTD and are not making the suggested change. We do not believe that it is reasonable to ask the caseworker, youth or administrator to evaluate and report the accuracy of such an assessment, as there is no requirement in the CFCIP for such an assessment.

Comment: A commenter believed that the independent living needs assessment element would provide little significant information about a certain State because that State routinely conducts an assessment when the youth becomes eligible for the independent living program and again at the point the youth ages out of the foster care system.

Response: We disagree that understanding whether youth receive independent living needs assessments, even for States that conduct them routinely, is insignificant. Rather, collecting information on the independent living services that a State provides to youth in each State and nationally is consistent with the statute's mandate and provides a frame of reference for interpreting youth outcomes.

Academic Support

In paragraph (g)(21), we request information on whether a youth received academic services designed to help a youth complete high school or obtain a General Equivalency Degree (GED).

Comment: A few commenters were concerned that this data element was not clearly defined.

Response: We have reviewed the regulatory language and do not see a need for change. We are quite specific that academic support includes activities such as academic counseling, preparation for a GED, tutoring, help with homework, literacy training, study skills training and help accessing educational resources. The element does not include the youth's attendance at high school or post-secondary supports.

Post-Secondary Educational Support

In paragraph (g)(22), we request information on whether the youth received support designed to help the youth enter or complete college.

Comment: One commenter asked for a clearer definition of support.

Response: We have reviewed the regulatory language and did not see a need for change. We are specifying the nature of the supports we mean in the regulatory definition, including test

preparation, college counseling, assistance applying for college and securing financial aid and tutoring while in college. The list is not all-inclusive, other supports such as college tours provided by the agency could fall within this definition. We have made a minor change to use the broader term of "post-secondary" versus college in the regulatory definition, so that we are clear that it includes all varieties of colleges (e.g., two-year colleges, four-year colleges, community and vocational colleges) and universities.

Career Preparation

In paragraph (g)(23), we require a State to report services that develop a youth's ability to find, apply for, and retain appropriate employment.

Comment: A couple of commenters suggested that we include a youth's participation in certain volunteer activities as part of the description of career preparation or as a part of the employment programs or vocational training data element described in paragraph (g)(24). Another commenter echoed inclusion of youth volunteer activities in NYTD as a separate service data element.

Response: Although volunteer activities may be a helpful component to a youth's development and preparation for work, we do not believe it is a service. Therefore, we are not making a change to the final rule to incorporate volunteer activities.

Employment Programs or Vocational Training

In paragraph (g)(24), we require a State to report whether a youth received programs and training designed to build a youth's skills for a specific trade, vocation or career through classes or on-site training.

Comment: A commenter suggested that instead of referring to vocational training as inclusive of training in occupational classes to build skills in "other current or emerging employment sectors" that the description refer to building skills in "other high-growth, high-demand industries."

Response: We understand that there are a variety of ways to capture this information, but do not see a need to modify the final rule in response to this suggestion.

Budget and Financial Management

In paragraph (g)(25), we require a State to indicate whether the youth receives training and other practical assistance related to budget and financial independent living skills. We received no comments on this data

element description and are not making any changes to the final rule.

Housing Education and Home Management Training

In paragraph (g)(26), the State is to indicate whether a youth receives instruction or support services regarding housing responsibilities and home management skills. The comments we received on this element have been addressed under the general issues on the services elements. We are not making any changes to the final rule.

Health Education and Risk Prevention

In paragraph (g)(27), the State must report if a youth received services related to health-related educational topics, but not the receipt of direct health services. The comments we received on this element have been addressed under the general issues on the services elements. We are not making any changes to the final rule.

Family Support/Healthy Marriage Education

In paragraph (g)(28) the State must report if a youth receives education on maintaining healthy families, including parenting and childcare skills, spousal communication, family violence prevention and responsible fatherhood.

Comment: One commenter expressed concern that the use of the term "healthy marriage" within the description of this element indicates a bias against non-traditional family compositions and does not take into account the youth's sexual orientation.

Response: We disagree that the data element indicates a bias for any family configuration. The focus of this element is to collect data on youth who receive education on positive family relationships, regardless of family configuration. States have the discretion to determine the content of such education and the extent to which it is individualized for youth.

Mentoring

In paragraph (g)(29), mentoring is defined as programs or services in which a youth meets regularly with a screened and trained adult on a one-on-one basis.

Comment: We received many comments suggesting modifications to the mentoring data element. A majority of these commenters urged us to broaden the definition to include informal relationships with adults, such as with parents of a youth's friends, coaches, teachers, ministers, former foster parents, former employers, and any other adult who provides positive support for the youth whether or not the

relationship is facilitated or funded through the child welfare agency. Several commenters also suggested that we remove from this service description the condition that mentors be screened and trained.

Response: ACF recognizes that youth may benefit from many different types of positive adult relationships that are not paid for or provided by the State agency; however, the purpose of this particular element is to collect data on mentoring as a service that is provided by the State agency. We will, however, gather data on positive adult relationships in the youth's life in the outcomes component of NYTD as described in paragraph (g)(48). We are not making any changes to the final rule in response to this comment.

Comment: A few commenters suggested that the data elements for mentoring and connection to adult described in paragraph (g)(48), be consolidated into a single element.

Response: While we can appreciate the desire to have fewer elements, we will retain the elements separately so that we can measure distinct concepts. The mentoring element is intended to capture whether youth are being mentored as a part of the independent living services they receive from the agency and the connection to adult element seeks information on whether youth are connected to adults as an outcome.

Comment: A commenter sought clarity on how a State would report to the NYTD a youth who had a formal mentor but the mentoring relationship was not facilitated or funded by the State agency or its agents.

Response: In the situation described, a State would indicate that the youth did not have mentoring as an independent living service in the data element described in paragraph (g)(29).

Comment: A commenter asked what kind of training was envisioned to qualify a mentor for the purposes of this data element. Another commenter posited that a mentoring relationship would be longstanding only if the person was a volunteer and unpaid. Finally, a commenter suggested that mentors could be an untapped resource to gather outcomes data on youth.

Response: All of the points raised by these commenters are matters that are at the discretion of the State. While the mentoring description limits the collection of data on those mentors that are screened and trained, we are not prescribing the extent of any screening or training. The training could range from an orientation to a structured mentoring curriculum. We agree that typically mentoring requires the

voluntary commitment of a caring individual, but we see no need to require that mentors be uncompensated. Finally, the extent to which the State agency chooses to involve mentors in some capacity in the collection of outcomes information from youth is an idea that may warrant further exploration, but would be completely up to the State agency.

Supervised Independent Living

In paragraph (g)(30), a State is to report whether a youth was served via a supervised independent living arrangements under the supervision of an agency, but without 24-hour a day supervision.

Comment: One commenter asked if a youth in a transitional living program should be reported as in a supervised independent living program. The commenter indicated that in a certain State, supervised independent living and transitional living were distinctly different even though they both offer a supervised living arrangement with less than 24-hour a day supervision by an adult and increased youth responsibilities.

Response: The commenter did not provide explicit details on its transitional living program; however, we understand that the Federal transitional living program provides grantees with funding to assist older, homeless youth in developing skills and resources to promote their independence and prevent future dependency on social services. This transitional living program provides housing and a range of services for youth ages 16 to 21, who are unable to return to their homes. Former foster care youth may be served by these transitional living programs, so whether to report a youth participating in such a program as receiving supervised independent living under this element depends on whether the youth's participation in the program is paid for or provided by the State agency and is otherwise consistent with the regulatory description.

Room and Board Financial Assistance

In paragraph (g)(31), the State is to report whether the youth is receiving room and board payments and other financial assistance such as rent deposits and utilities. We received no comments on this description, and we are not making changes to the final rule.

Educational Financial Assistance

In paragraph (g)(32), we describe educational financial assistance to include financial assistance for a youth's school books and materials,

tuition assistance, examination and application fees, and educational vouchers for college tuition or vocational education.

Comment: One commenter suggested we combine this element on educational financial assistance with the outcomes focused element of educational aid described in paragraph (g)(41), and for States to report on all youth in the served, baseline and follow-up populations.

Response: We are unable to combine the elements described in paragraph (g)(32) “educational financial assistance” and in paragraph (g)(41) “educational aid” because the applicable populations are different for each element as well as the scope and purpose of the elements. “Educational financial assistance” is a service element that refers to financial supports that the State agency pays for or provides for the youth whereas “educational aid” is an outcome element and refers to monies or other types of educational financial aid, from any source, that helps cover the youth’s educational expenses as an indicator of their financial self-sufficiency. We are retaining the two separate elements in the final rule so that we obtain data on both concepts.

Other Financial Assistance

In paragraph (g)(33) the State is to report whether a youth is receiving any other type of financial assistance from the State agency to assist the youth to live independently. We received no comments on this description, and we are not making changes to the final rule.

Discussion on General Issues With the Outcomes-Related Elements

Commenters raised general questions and concerns about the data elements that relate to youth outcomes described in paragraphs (g)(34) through (g)(58). We also address each of these elements separately.

Comment: One commenter was unclear about how ACF would obtain results about the increase, decrease or improvement of the six outcome measures. Another commenter questioned whether the survey questions could measure with validity the six outcomes of interest.

Response: The six outcomes outlined in this regulation will be measured based on the data reported by States through the elements in paragraphs 1356.83(g)(34) through (58). We formulated the survey questions and data elements after significant stakeholder involvement and a pilot test and believe that they will measure the outcomes specified. However, we have

not yet devised the specific performance measures upon which to assess State performance.

Comment: A couple of commenters asked whether the State is permitted to conduct data cross-matching with other administrative databases to gather data on youth, such as those maintained by States to support corrections, Temporary Assistance for Needy Families, Medicaid, employment, education, and child support.

Response: For outcomes data collection, ACF is requiring that the States use the survey method prescribed in 45 CFR 1356.82(a)(2). The State must administer the outcomes survey in appendix B to youth directly and therefore, the State may not provide information in the data elements described in paragraph (g)(37) through (g)(58) from any other source. On the other hand, information on the youth’s characteristics (e.g., adjudicated delinquent, educational level, foster care status, etc.) does not need to be collected from the youth directly and may come from a source of administrative data.

Comment: A commenter asked if we expect State agencies or the person administering the outcome survey to the youth to verify the answers youth provide.

Response: We are not clear what the commenter envisions as verifying youth information and can envision scenarios where this may or may not be acceptable. For example, the State may not ‘verify’ a youth’s answers to the outcomes survey against information from a third-party, such as whether the youth has been referred for a substance abuse assessment or counseling or whether the youth has children.

Alternatively, it may be appropriate for the State to devise a system of prompts in an outcomes survey administered on the internet that ask the youth to ‘verify’ whether he or she meant to provide a particular answer. Since verification techniques differ, we prefer to address specific questions about verification through policy guidance and technical assistance, as necessary.

Comment: A commenter requested clarification of the term “high risk behaviors.”

Response: Section 477(f)(1) of the Act requires that we develop outcome measures, one of which is a measure of high-risk behaviors. During the consultation process we determined that we would interpret this term for the purposes of the NYTD to refer to substance abuse, incarceration, and childbearing outside of marriage. These behaviors will be measured through outcome 5, reducing high-risk behavior

among young people using data reported to us in the elements described in paragraphs (g)(50) through (g)(53).

Comment: One commenter stated that youth who leave foster care may be hesitant about sharing their experiences with high risk behaviors with the State or Federal government.

Response: We have taken this into consideration and feel that the option to decline to answer is sufficient for youth who are hesitant about sharing their experiences related to high risk behavior.

Comment: One State asked if ACF would be providing detailed mapping forms with code tables for reporting the outcome data elements, which the commenter believed was necessary for accurate comparison or aggregate analysis.

Response: Detailed mapping forms and other technical information are not provided in the final rule. We will be providing technical assistance and guidance outside of the regulatory process to support States as they implement the NYTD.

Outcomes Reporting Status

In paragraph (g)(34), we require the State to indicate if the youth participated in the outcomes data collection, and, if not, the reason why the State was unable to collect the outcome information.

We did not receive comments on this paragraph but have made several modifications to the final rule. One change reflects the reduced number of data elements (from 60 to 58 elements). We have also added language specifying that when a youth does not participate in the outcomes data collection, most of the remaining outcomes elements should have blank responses.

Finally, we have added a new response option of “not in sample” for the State to identify the 19-year-old youth who are in the follow-up population but who were not selected in the State’s sample. See also the previous discussion on section 1356.83(e). Youth who are not in the sample do not need further categorization, as the remaining response options apply only to those youth who are in the sample. This response option will be used only by those States who sample, once every three years when outcomes data collection is due for 19-year-olds in the follow-up population.

The addition of this response option obviates the need for the separate element “sampling status” that we proposed in the NPRM. We have removed the sampling status data element formerly at paragraph (g)(37)

and renumbered the remaining elements accordingly.

Date of Outcome Data Collection

In paragraph (g)(35) we require a State to report the last date the State collects outcome information from the youth.

Comment: One commenter suggested modifying the element so that the State reflects just the month and year and not the day of the data collection. The commenter believed that because a State may gather outcome data on a youth from multiple sources, including parents, the last day of data collection may prove overly complicated.

Response: In the date of outcome data collection element, we require the State to report the last date that the outcome information is collected from the youth. The State cannot collect outcomes data from the youth's parent or guardian or an alternative source. The State reports the date when the outcomes survey is completed by the youth directly. For example, if the youth outcomes survey is administered in person by the youth's caseworker and the youth completes it over the course of two visits, the State must report the last date the survey is completed for this element. We reviewed the data element description in light of this comment and believe it is clear. We have made a modification to the description only to reflect the change in the number of data elements.

Foster Care Status—Outcomes

In paragraph (g)(36), the State must report the youth's foster care status at the time of the outcomes data collection. We did not receive comments on this paragraph and have made no changes to the regulation. However, we would like to note that a 19- or 21-year-old youth would only be in foster care consistent with the definition of foster care in 45 CFR 1355.20, if the youth has not yet reached the State's age of majority.

Current Employment Elements

In paragraph (g)(37) and (g)(38), the State must report whether the youth indicates that he or she is employed full-time or part-time, respectively, as of the date of information collection.

Comment: A few commenters were concerned that the NYTD does not require the State to report more details about the youth's employment status, such as the reason for unemployment, income level or salary information and number of hours worked. The commenters requested more detailed information on employment income level so that researchers could determine youth poverty levels and whether youth were engaged in other activities that explained their

employment status, such as college attendance, military enlistment, incarceration or illness.

Response: We believe that more detailed data on employment status is not central to the purposes of the NYTD. Even though we are not requiring more detailed information, States will report information in other elements that provides additional context consistent with the commenter's concern. If a youth reports that he or she is working full-time, but still requires public financial assistance, the State will report this information in the public financial assistance element as described in paragraph (g)(42). Youth who are attending college or some other type of higher education would have the opportunity to provide that information in the current enrollment and attendance element described in paragraph (g)(47). The NYTD also solicits information on whether youth have been incarcerated in the past, or cannot participate in outcomes data collection because they are incarcerated at that time. Youth who are enlisted in the military, inclusive of the reserves and the guard, are employed and should indicate their full-time or part-time working status accordingly. For these reasons, we are retaining the two elements as in the NPRM.

Comment: A commenter said that measuring full-time and part-time employment as of a specific collection date would not capture potentially long-term employment if it ended prior to the outcomes collection date.

Response: We made the choice to request information on employment on the date of the outcomes data collection in the NPRM after considering the various possible timeframes in which we could request this information. Since our primary goal is to gather information that will help us understand the experience of youth as a whole, and the State's performance, rather than assessing the outcomes for individual youth, we believe that the current employment status of the youth is sufficient for our purposes.

Comment: Several commenters noted that the NYTD did not have an element for reporting multiple jobs, and asked how a youth should report working multiple jobs in excess of 35 hours.

Response: We reviewed the data element descriptions of full-time and part-time employment in light of this comment and believe they lacked clarity about how to report multiple jobs. We are amending the final rule to specify that a youth who is employed at least 35 hours per week is considered working full-time and a youth who is employed 34 hours a week or less is

considered working part-time for the purposes of this element, regardless of whether such employment is in one or multiple jobs. We do not believe it is necessary for our purposes to solicit additional information on the number of jobs a youth holds.

Employment-Related Skills

In paragraph (g)(39), the State is to report whether the youth indicates that he or she has completed an apprenticeship, internship, or other type of on-the-job training in the past year.

Comment: One commenter believed that it would be helpful to find out if the youth had obtained employment-related skills during the previous two years, rather than just the previous year. As the survey is administered to youth in two-year intervals, the commenter believed this particular element should capture the youth's entire experiences since the prior survey.

Response: In creating this element we took into consideration what we believed was a reasonable time frame for a young person to recall employment-related training along with our desire to get the most accurate information possible from a youth. Since our primary goal is to gather information that will help us understand the experience of youth as a whole and the State's performance, rather than assessing the outcomes for individual youth, we believe that asking youth about employment-related skills in the last year is sufficient for our purposes. We are not making a change to the final rule in response to this comment.

Social Security

In paragraph (g)(40), the State is to report whether a youth indicates that he or she receives Social Security Income (SSI) or Social Security Disability Insurance (SSDI) directly or as a dependent beneficiary.

Comment: A few commenters asked for clarification on whether a State should report a youth who receives SSI/SSDI payments which are applied to the cost of foster care or only those that are paid to the youth directly. Commenters raised a concern that a youth may not know he/she was an SSI/SSDI recipient if such payments were applied to the cost of foster care and questioned whether the State should 'correct' a youth's response accordingly.

Response: If the youth is a SSI/SSDI beneficiary but his or her payment is going towards the cost of foster care, then the youth is receiving social security payments consistent with the description for the data element in paragraph (g)(40). However, the State is not to correct a youth's response if the

youth is a beneficiary but responds in the negative to the social security survey question. While we recognize that this may result in some cases of a youth answering the question incorrectly, we believe it is important to the integrity of the survey and data to represent the youth's understanding of his or her own circumstances. We do not believe any changes are warranted to the final rule in response to this comment.

Educational Aid

In paragraph (g)(41), the State is to report whether a youth indicates he or she is receiving a scholarship, education or training voucher, grant, stipend, student loan, or other type of educational financial assistance.

Comment: A commenter believed that the element was relevant only if the youth was enrolled in post-secondary training or education. The commenter believed that we would have difficulty interpreting a "no" response unless we included an additional response option for youth who are not enrolled in school.

Response: This data element is not limited to educational aid for those youth enrolled in post-secondary training or education. Rather, a youth would report current scholarships, grants, stipends, and vouchers for any education, including for a secondary education. The only limitation is with regard to a student loan which the government provides for obtaining a post-secondary education only. Finally, the State will report whether a youth indicates that he or she is enrolled and attending school currently in the element described in paragraph (g)(47).

Comment: A commenter believed the educational aid element to be too broad and would not reveal what kinds of aid the youth receives, i.e., Pell grants, ETV vouchers, or other scholarships. The commenter was also concerned that the reference to using educational aid for living expenses did not seem appropriate to the nature of the element or for youth under the age of 18.

Response: We proposed the educational aid element as an indicator of youth financial self-sufficiency. The element is not intended to elicit specific information on the types of aid the youth is using to attend school. However, we agree with the commenter that the reference to living expenses may be confusing and are removing the reference from the final rule. To be clear, we are seeking information on 17-, 19- and 21-year-olds' current use of aid that helps the youth attend school, rather than how that financial assistance is used (i.e., for room and board expenses, books, fees, etc.).

Public Financial Assistance

In paragraph (g)(42), we require a State to report whether the youth indicates that he or she is a current recipient of ongoing cash welfare payments from the government to cover some of his or her basic needs. We received no comments on this description. However, we have made some changes due to our concerns that this element was not broad enough to include the types of public financial assistance in which we were most interested. The element, as originally proposed, focused on a youth's receipt of cash assistance from a State's Temporary Assistance to Needy Families (TANF) or title IV-A program. We have since learned that States provide ongoing cash assistance designed to meet certain adults' basic needs in broader circumstances than those permitted under the TANF program. We are more interested in understanding whether the youth is receiving any type of public cash assistance and not just assistance that meets TANF requirements. Therefore, we have broadened the definition to refer more generically to ongoing welfare assistance. Further, we have specifically included language that clarifies that we are interested in financial payments for basic need versus other types of government assistance for particular purposes.

Finally, we discovered that the element was categorized incorrectly in Appendix A to the NPRM. We have corrected the appendix to clarify that the information on public financial assistance is collected on youth in the follow-up population who are no longer in foster care.

Public Food Assistance

In paragraph (g)(43) the State is to report whether the youth indicates that he or she has received public food assistance.

Comment: A few commenters suggested alternative approaches to gathering information on youth who receive food assistance. A commenter believed that we should amend the data element description to include a youth's use of "food pantries." Another commenter believed that we should require a State to report whether the youth has experienced "food insecurity" which means that the youth's access to food is limited by a lack of money or other resources. This commenter reasoned that the public food assistance element as proposed would not provide information on whether those youth who do not receive

public food assistance have a need for such assistance.

Response: We appreciate that there are other ways to determine whether youth have enough food to meet their needs and the ways in which youth may meet that need. However, we reviewed the element description and believe that it will provide the information we are seeking. The law requires us to track the youth's reliance on public assistance as an outcome and that is the primary reason for us selecting this element. Whether youth are hungry or lack sufficient and consistent access to foods is an important indicator of their well-being, but it is not an indicator that we identified during consultation as one that the State agency should be held accountable for and an outcome that could be measured easily in a data collection system. Finally, while community food pantries do provide food assistance, we do not consider them to be public assistance. We are making a minor modification to the title and description of this element to be clear that we are seeking information on "public food assistance" and not all kinds of food assistance. We do not believe further substantive changes are necessary in response to these comments.

Public Housing Assistance

In paragraph (g)(44), the State is to report whether a youth indicates that he or she is receiving government-funded housing assistance. We did not receive comments on this paragraph, however, we are making a minor modification to the title of the element to be clear that we are seeking information on "public housing assistance" as opposed to housing assistance from other sources. We are not making further changes to the final rule.

Other Financial Support

In paragraph (g)(45), the State must report whether a youth indicates that he or she receives any other periodic and/or significant financial resources or support.

Comment: A commenter suggested that the element be renamed "other financial support" to clearly indicate that only financial support was being identified in the element.

Response: We concur with the commenter and have amended the final rule accordingly.

Comment: A commenter asked for further clarification on reporting non-familial sources of support since the definition in the proposed Appendix B referred only to other support specifically from a spouse or family member.

Response: We reexamined the preamble to the NPRM, the proposed regulatory text and the definition in Appendix B and found that the definitions, as well as the examples and exclusions, were not consistent regarding this element. We have amended the final rule to ensure a consistent definition of other financial support and to be clear that such funds may not necessarily be uninterrupted payments but also may be significant funding sources of a temporary nature. An example of both a significant and non-familial financial support is funds from a legal settlement, which is listed in the regulation text.

Highest Educational Certification Received

In paragraph (g)(46), the State is to report the youth's stated highest educational certificate.

Comment: A commenter thought that this element should be revised to reflect all of a youth's educational achievements.

Response: We recognize the importance of educational achievements at all levels, but our intention with this element is to ascertain the highest level of educational certification a youth has received. This element addresses the statutory requirement to develop measures related to educational attainment. As such, we do not believe a change is warranted.

Comment: One commenter thought that high school diploma should be separated from GED, since long term outcomes in terms of later educational completion and earnings vary.

Response: While we recognize that long term outcomes may differ for youth who receive a high school diploma versus a GED, we feel that grouping them together for this data collection purpose still provides sufficient information regarding educational attainment and the transition from foster care to self-sufficiency. For this reason we are keeping high school diploma and GED as one response option for this element.

Comment: A commenter asked us to clarify how we used the terms "certificate" or "credential" so that they are more consistent with measures used by other Federal agencies and endorsed by some employers. The suggested language was that a certificate or credential is "an award made in recognition of an individual's attainment of measurable technical or occupational skills necessary to gain employment or advance within an occupation."

Response: We recognize that there are different ways for defining and

classifying degrees, certificates and credentials that a youth may receive. Since this survey is going to be completed by youth, we crafted the descriptions to be consistent with terms with which youth are familiar and that were relatively simple to understand. For this reason, we are not making changes to this description.

Current Enrollment and Attendance

In paragraph (g)(47), the State is to report the youth's stated enrollment in and attendance at school.

Comment: A commenter recommended allowing young adults to specify the type of school they currently attend, such as GED, vocational training or college.

Response: This element was developed to indicate if youth are making progress towards meeting educational goals by being enrolled and attending some kind of educational institution, not to identify where youth are specifically in school. We believe that the specific type of institution attended does not contribute substantially to our ability to identify educational attainment for youth as required by the statute. For this reason we are not amending the element to allow youth to specify the type of school they attend currently. However, we did make a minor modification to the final rule to be clearer about the situations when a youth is still considered to be enrolled in and attending school when that school is out of session.

Connection to Adult

In paragraph (g)(48), the State is to report whether a youth has stated his or her positive connection to an adult who serves in a mentor or substitute parent capacity.

Comment: A few commenters asked us to be clearer about which adults, particularly adult family members, youth could identify in this element. Also, a couple of commenters asked us to broaden the element to permit youth to select current family service workers or caseworkers as an adult to whom they are connected, as these relationships may be meaningful for a young person.

Response: We reviewed the description of this data element and are clarifying the definition of this element in the final rule. A connection to an adult can include adult relatives, parents or foster parents but specifically excludes spouses, partners, boyfriends or girlfriends and current caseworkers. While the relationship between a youth and a current caseworker can be a positive connection to an adult, we are attempting to determine if the youth has

a positive relationship to someone outside of the State agency staff who are employed to work with the youth.

Homelessness

In paragraph (g)(49), the State is to report whether the youth indicates he or she has experienced homelessness.

Comment: A few commenters were concerned that the NYTD did not specify the number of homeless incidents or the duration of homelessness. The commenters believed that this information would provide a clearer understanding of former foster youth experience(s) with homelessness. Another commenter requested more specific information on where youth are when they are homeless.

Response: During the consultation process some participants noted that it is important to measure the duration of homelessness because there is a difference in being homeless for a few nights versus part of a year. However, in order to lessen the data collection burden, we decided not to include a data element about the duration of a young person's experience with homelessness for several reasons. We believe that it may be difficult for youth to remember clearly the duration and episodes of homelessness, particularly since we are interested in capturing episodes that may have occurred several years ago. Additionally, we are not counting the number of homeless incidents because we believe that a youth's experience with homelessness, no matter how brief or how frequent, often has a significant impact on his/her life and ability to be self-sufficient in a way that other experiences do not.

Comment: Commenters pointed out several aspects of our proposed definition that were not clear. One commenter said that the phrasing "no regular place to live of his own" could be misinterpreted to mean that a youth may be homeless unless he owns or leases a home of his or her own. Another commenter believed that a youth should not indicate that he has experienced homelessness if "temporarily living with a friend" as in our proposed definition. A commenter also questioned whether the State should survey youth about homelessness if the youth is still in foster care.

Response: We reviewed the proposed definition of homelessness and agree that it lacked clarity and could lead to overreporting of the type of homelessness in which we are most interested. Therefore, we are amending the final rule to remove the language that caused confusion. We have also clarified in the definition that the

homelessness survey question is to be asked of all youth whether or not they are in foster care at the time of the data collection. This is important because when the question is posed to 17-year-olds, it asks for the youth's lifetime experience with homelessness. When the youth is 19 or 21, the question is different and solicits information on whether the youth was homeless at any time in the past two years. Even if a youth is in foster care on the date of outcomes data collection, the youth may have been homeless at some point during that timeframe.

Comment: A commenter wanted to know if the definition of homelessness was the same as for other Federal programs and funding streams such as the McKinney-Vento Homeless Assistance Act.

Response: There are many different definitions for homelessness in Federal programs that vary based on the intended purposes of those programs. Our definition of homelessness is based on, but not identical to, the definition used in the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302). Rather, we chose a simpler and more general definition of homelessness to use for our purposes which is that the youth has no regular or adequate place to live. This definition includes situations where the youth is living in a car, on the street, or staying in a homeless shelter.

Comment: One commenter suggested the development of a new measure to determine the relative stability of living circumstances for each 17-year-old during the previous 18 to 24 months prior to data collection. The commenter believed that such a measurement would clarify issues caused by the high correlation between high relative stability and positive transitional service outcomes.

Response: We are not clear which data elements the commenter believes would relate to this measure of stability or what the measure would entail; however, our intent at this time is to promulgate data elements that will allow us to develop appropriate outcome measurements at a later time.

Substance Abuse Referral

In paragraph (g)(50), the State is to report whether the youth indicates that he or she has had a referral or self-referral for alcohol or drug abuse assessment or counseling. We did not receive comments specific to this element description and we are not making changes to the final rule.

Incarceration

In paragraph (g)(51), the State is to report the youth's incarceration.

Comment: Several commenters were concerned that the definition of "incarceration" provided in the NPRM was inadequate for what the data element was trying to capture. Specifically, many thought that the term was too broad, and several suggested distinguishing between being arrested, being detained in a jail or juvenile/community detention facility because of an alleged crime, and being convicted. A couple of commenters were concerned that wrongful arrests might reinforce negative stereotypes about foster youth and unfairly stigmatize this population, particularly if the youth were detained for a minor infraction.

Response: We agree that the proposed definition of incarceration captured too many different concepts. As such, we are amending the final rule to focus more specifically on incarceration, rather than arrests or convictions, because the statute requires that we measure incarceration as an outcome (section 477(f)(1)(A) of the Act). We acknowledge that this element may capture information on youth who are incarcerated after a wrongful arrest and for minor infractions, but we do not have a clear basis upon which to exclude such information from this data collection.

Comment: Another commenter was concerned that as different States have different laws and definitions for incarceration, it could prejudice the outcome measure to use that term for a nationwide data collection.

Response: States may have different laws and/or definitions for incarceration, but we have included a specific definition for this data collection process in the final rule. Further, the purpose of this element is to present a broad picture of youth experiences with incarceration and not to pinpoint the type of alleged crimes or the nature of the convictions that may have led to the youth's incarceration.

Comment: One commenter suggested that we change the definition of incarceration in Appendix B from "an alleged crime * * * committed by a youth" to "a crime * * * allegedly committed by the youth."

Response: We agree and have amended Appendix B accordingly.

Children

In paragraph (g)(52) the State is to report whether the youth indicates that he or she gave birth to, or fathered, any children. We did not receive comments specific to this element description and are not making changes to the final rule.

Marriage at Child's Birth

In paragraph (g)(53), the State is to report whether the youth was married to the child's parent at the time of the birth of any children reported in the previous paragraph.

Comment: A few commenters suggested that the data element specify that the youth be married to the child's other "biological" parent, not just "other parent."

Response: We have examined this suggestion but do not believe a change is warranted. This element is crafted to focus on the outcome of "nonmarital childbirth" as required by the statute (section 477(f)(1)(A) of the Act). As such, we are interested in information on whether the youth is married to his or her child's other biological or legal parent at the time of the child's birth. We did, however, mistakenly specify the child's other "biological parent" rather than "other parent" in the NPRM preamble which may have generated this comment.

Comment: A commenter pointed out that in the description of the marriage at child's birth element in Appendix B we referred to any child born "in the past year" while the definition in the regulatory text refers to any child reported in the children element.

Response: The commenter is correct that we made an error. The two elements relate, so that if a youth reports that he or she had a child in his lifetime (if reporting at age 17) or had a child within the past two years (if reporting at age 19 or 21), then the marriage element relates to whether the youth was married at the time of the births during those respective timeframes. We are amending Appendix B accordingly.

Medicaid

In paragraph (g)(54), the State must report whether the youth indicates that he or she is participating in the State's Medicaid program. We did not receive comments on this paragraph and are making no changes to the final rule.

Other Health Insurance Coverage

In paragraph (g)(55), the State is to report whether a youth has indicated that he or she has health insurance other than Medicaid. We did not receive comments on this paragraph and are making no changes to the final rule.

Health Insurance Elements

In paragraphs (g)(56) through (g)(58), the State is to report the types of health insurance the youth indicates he or she possesses other than Medicaid.

Comment: Several commenters found that the health insurance elements

lacked clarity and simplicity. A commenter also noted that survey questions regarding other health insurance types had been omitted from the survey in Appendix B.

Response: We agree and have amended the final rule in a number of ways to respond to the commenters' concerns. The survey questions and elements are structured now to solicit all types of insurance types the youth has, rather than pinpointing a particular combination of insurance. For example, the youth will be asked separately whether he has insurance that covers medical health, mental health, and/or prescription drugs, rather than whether he has a plan that combines all three types. We have also added a response option of "I don't know" to the health insurance type elements in a way that permits the youth to identify the types of insurance that he or she knows and does not know about. We have eliminated a data element with this restructuring without any loss in the information collected. Finally, Appendix B specifies the survey questions that reflect these changes.

Recommendations for Additional Data Elements for Both the Services and Outcomes Components of NYTD

Comment: A commenter noted the absence of data elements in the NYTD that identify youth who have physical or mental disabilities. The commenter believes that information regarding disabilities is essential to a complete analysis of data on youths' employment and educational attainment.

Response: We agree that data on a youth's disabilities could inform our understanding of independent living services and youth outcomes. However, States already collect and report this information to AFCARS. Since we are requiring States to identify youth in the same way in both datasets, we believe we will have the foundation to analyze youth disabilities information from AFCARS in conjunction with the services and outcomes information from NYTD. We do not believe it necessary to require States to duplicate this information and are not making a change to the final rule.

Comment: A commenter suggested an additional characteristics element which identifies the youth's living arrangement, particularly whether youth are in a foster family home, child care institution or a supervised independent living arrangement. The commenter believed that this information could shed light on the likelihood of youth receiving informal or formal services.

Response: We disagree that all living arrangements need to be incorporated

into the NYTD as we do not believe that information on the setting in which an independent living service is delivered is essential to fulfilling the statutory mandate. One exception is that when a youth is in a supervised independent living arrangement it would be indicated as a service to the youth because it is more than just the child's placement. To the extent that other living arrangement information may reveal useful information, we can analyze the NYTD information in conjunction with AFCARS data on foster care settings. We are not making changes to the final rule to incorporate further living arrangement information.

Comment: Several commenters believed that the NYTD should have several elements on youth mental health. In particular, commenters requested elements to identify youth with mental health issues, report whether such youth are referred for or receive mental health assessments and services, and assess prevalence of mental health problems as an outcome. These commenters noted that some research indicates that youth in foster care have a higher rate of mental health issues, which if not treated effectively, can be significant barriers to self-sufficiency.

Response: We reexamined our exclusion of a mental health element in the NPRM and believe still that it is not appropriate for this data collection. During our consultation process, we ruled out the inclusion of elements on health utilization and outcomes, including mental health. We agreed with stakeholders that mental health is an important aspect of a youth's well-being, but it is not generally accepted as part of the responsibility of a State's independent living program. Further, mental health is an area that is challenging to measure in a straightforward manner. As such, we are not making a change to include mental health services or outcomes in the final rule.

Comment: One commenter suggested that it was not only important to know if youth needed health services, mental health services or prescription medications, but also if youth had been unable to access appropriate services.

Response: We are interested in determining to what extent youth have health insurance as a measure of their ability to access appropriate services to meet their needs. As stated previously, we ruled out measures of health care utilization during consultation and find no compelling reason to include them in the final rule.

Comment: A commenter recommended that we collect and use

data on the State agency's efforts to continue permanency planning for older youth despite their preparation for emancipation. The commenter suggested that this could be accomplished through services and outcomes data elements in NYTD or alternatively through AFCARS.

Response: The NYTD was designed to collect data specifically about services offered by the State's independent living program and outcomes related to those services. Although we recognize the potential value of an agency's continued permanency efforts for older youth, we believe that this dataset is not the appropriate venue for requesting information regarding permanency plans. Rather, to some extent, this information can be examined more closely through the existing AFCARS and the Child and Family Services Reviews.

Comment: One commenter noticed the omission of data elements that relate directly to a youth's use of education and training voucher (ETV) funding pursuant to section 477(h) of the Act and thought it would be useful to collect information on the drop-out rates of youth using the vouchers and the youths' reasons for dropping out of post-secondary education.

Response: A youth's receipt of an ETV is included in both the services and outcome elements as part of the "Educational Financial Assistance" service element and the "Educational Aid" outcomes element. This data collection system is not designed to be a program evaluation tool for any one specific CFCIP activity, and therefore adding specific questions regarding ETVs is not consistent with the intent of this regulation.

Comment: A commenter believed that we should incorporate additional elements to assess youth high-risk behavior due to sexual activity. The commenter proposed an element for teen pregnancy at ages 17, 19 and 21, in addition to born children, so that we could determine youth abortions or miscarriages. The commenter also proposed an element for recording sexual activity, particularly to obtain a complete understanding of male behavior that is not captured in pregnancy data.

Response: While we recognize that the suggested elements may provide a more complete picture of sexual activity, we are not persuaded that these are appropriate to measure in this data collection.

Comment: A commenter suggested that we require a State to report whether a youth possessed critical documents, including a birth certificate, driver's

license or other State-issued identification and social security card.

Response: We considered whether to include a youth's possession of critical documents as an outcome element during consultation but ruled it out because we determined that such information is more appropriate for program evaluation. We have not received compelling information that suggests a different approach and are not making changes to the final rule in this regard.

Comment: One commenter requested data elements that would more accurately reflect effectiveness of specific programs implemented pursuant to the Foster Care Independence Act.

Response: This data collection system is not designed to be a program evaluation tool for any one specific CFCIP program, which is why we have not included data elements related to the implementation of specific programs.

Comment: One commenter suggested adding an element that indicates the method of survey administration, which would make it possible to identify any potential biases in the outcomes data that may be associated with the various survey methods.

Response: We do not believe it is necessary to require this information through a data element; however, we will provide additional guidance outside of regulation on how States can provide us with additional information that explains or relates to their data submission.

Electronic Reporting

In paragraph (h), we require a State to submit NYTD data electronically.

Comment: We heard generally positive comments about using Extensible Mark-up Language (XML) to transmit data files. We also had several requests from commenters for more detail on how States should prepare their electronic files and submit their files to us.

Response: We appreciate that commenters responded to our request for feedback on using XML. We still are not regulating a particular method for submitting data here, but will provide States with detailed technical information on preparing and submitting their data files outside of regulation.

Section 1356.84 Sampling

In paragraph (a), we describe the option for a State to sample youth who participate in outcomes data collection at age 17 and collect outcomes data on the sample at ages 19 and 21.

Comment: Several commenters supported sampling for the follow-up population at ages 19 and 21 as a viable method to collect data in some States. Alternatively, a commenter objected to our proposal to allow a State to survey a sample of youth in the follow-up population. This commenter believed that it was reasonable to expect States to follow all youth over time given the staggered outcomes data collection schedule and the participation rates.

Response: We proposed to permit sampling because we believe that there are challenges inherent in States following very large populations of youth over time, including significant financial costs. As such, we are retaining the provision which permits States to sample.

In paragraph (b), we specify how the State must select the follow-up sample and describe the sampling universe. The State agency must use simple random sampling procedures based on random numbers generated by a computer program, unless ACF approves another sampling procedure.

Comment: A commenter interpreted our proposed requirements regarding sampling methodology to mean that a State must use a simple random sampling approach. The commenter believed that a stratified random sampling approach based on counties would be more appropriate for some States.

Response: We agree with the commenter that the simple random sampling approach may not be an appropriate method for all States. For this reason, we are retaining in the final rule our proposal for the use of an ACF-approved alternate sampling methodology. ACF will consider all alternate sampling methods proposed by a State that utilize accepted sampling methodologies. No changes are needed to the final rule in response to this comment.

In paragraph (c), we require the State to base the sample size on the number of youth in the baseline population who participated in the State agency's data collection at age 17. The State will use one of two formulas based on whether the sampling frame is less than or greater than 5,000 youth and will increase the resultant sample size by 30 percent to allow for attrition.

Comment: A commenter objected to using the number of 17-year-olds as reported in AFCARS to forecast the number of youth who will receive independent living services in the State's random sample since actual youth in foster care fluctuate over time. The commenter suggested that we

instead publish guidance which indicates actual sample sizes.

Response: There is no requirement to use AFCARS data for the sample. In the preamble to the NPRM we provided State-specific numbers of 17-year-olds in foster care and the potential sample sizes using AFCARS data for illustrative purposes only. However, the actual sample size will depend on the number of youth in the baseline population who participate in the outcomes data collection at age 17. States will then track this sample of youth over time and administer the outcomes survey when those youth turn age 19 and 21. No changes are warranted in response to this comment.

Comment: A commenter offered a strategy to decrease sample attrition which involves adding a series of questions to the survey about people who can be contacted by the State agency to help locate the youth over time.

Response: We agree with the sentiment expressed by the commenter that if a State solicits contact information from youth when administering the survey, it could increase the State's success in locating the youth later. Such a practice is allowable, however, we do not believe it is necessary to mandate particular tracking methods or otherwise amend our survey or sampling procedures in response to this comment. Rather, we intend to provide ongoing technical support of this nature to States in meeting the requirements of the NYTD.

Section 1356.85 Compliance

In this section we define the standards we will use to determine a State's compliance with NYTD and our process for determining whether the State is in compliance with the standards.

File Submission Standards

In paragraph (a), we specify the file submission standards. The State must achieve these minimal standards for timeliness, formatting, and quality information in order for us to process the State's data appropriately.

In paragraph (a)(1), we specify the timely data file standard. To be timely, we must receive the State's data file within 45 days of the end of each six-month report period, consistent with the reporting period and timeline specified in section 1356.83(a). There were no comments specific to this section other than those we addressed previously in the discussion of the submission deadline in section 1356.83(a). We are not making changes to the final rule.

In paragraph (a)(2) we specify the format file standard. To meet this standard the State must send us a data file in a format that meets our specifications.

Comments: A few commenters raised issues related to data file formatting specifications in the context of the availability of technical assistance and software programs (*i.e.*, utilities) that can be used to detect formatting errors in a data file prior to submitting a data file to ACF.

Response: At this time we cannot outline the exact transmission method and/or formatting requirements for the NYTD data as explained in the preamble to the NPRM. In brief, we have decided not to regulate the technical requirements for formatting or transmitting the NYTD data file. Instead, we will issue technical requirements and specifications through official ACF policy. We have learned through our experience with AFCARS that it is more prudent not to regulate the technical specifications for formatting and receiving data because of inevitable future advances in technology. Further, we will consider what form of technical assistance may be needed by State agencies to meet the NYTD file submission. No changes are needed in the final rule in response to these comments.

In paragraph (a)(3) we specify the error-free information file standard. A State must submit 100% error-free data for the basic demographic elements described in section 1356.83(g)(1) through (g)(5), (g)(14) and (g)(36) for every youth in the reporting population.

Comment: A few commenters were concerned that the proposed 100 percent error-free information standard was unreasonably high. One of these commenters requested that we lower the standard to 98 percent, particularly to accommodate larger States that may find such exact quality control challenging.

Response: The error-free information file standard is consistent with the importance we place on quality information for the seven basic elements: State, report date, record number, date of birth, sex, foster care status—services, and foster care status—outcomes. As we explained in the preamble of the NPRM, we believe the State agency can report readily on these seven elements, but more importantly, they are essential to our capacity to analyze the data and determine whether the State is in compliance with the remaining NYTD data standards. For example, these elements allow us to determine whether the youth should be surveyed for outcomes as part of the baseline population because the youth

is 17 years old and in foster care, and whether the State has achieved the foster care participation standard. We are not making changes to the final rule in response to this comment.

Data Standards

In paragraph (b), we specify the set of data standards a State must meet to be in compliance with NYTD requirements.

Error Free

In paragraph (b)(1), we require the State to meet the standard that the remaining data elements, *i.e.*, demographic, service and outcomes elements defined in section 1356.83(g)(6) through (13), (g)(15) through (35), and (g)(37) through (58), must be 90 percent error-free. No comments were received on this standard and we are not making any changes in the final rule.

Outcomes Universe

In paragraph (b)(2), we describe the outcomes universe standard. To meet this standard the State must submit complete or partial outcomes information or a reason explaining why there is no outcomes data for each youth in the follow-up population (or the sample) who participated in the outcomes data collection as part of the baseline population.

We received no comments on this section, but have modified the final rule to account for the provision at section 1356.83(e) which requires a State to identify youth who are not in the follow-up sample of 19-year-olds. The final rule now specifies that for those States that sample, the State must submit outcomes reporting status information on all 19-year-olds in the follow-up population, whether or not they are in the sample. States that sample will meet the outcomes universe standard if they submit at least the outcomes reporting status on all of the 21-year-olds in the follow-up sample.

Outcomes Participation Rates

In paragraph (b)(3), we require the State to obtain full or partial outcomes information from a certain percent of youth in the follow-up population.

Comment: A couple of commenters noted that we did not propose to adjust the calculation of the participation rate to exclude youth who are deceased or institutionalized consistent with accepted survey methodologies.

Response: After reviewing various survey methodologies, we believe that a change in the regulation is warranted. We are amending paragraph (b)(3) to exclude youth who are reported by the

State as deceased, incapacitated or incarcerated in the follow-up population in our calculation of the participation rate. Excluding individuals who should not participate due to the nature of the survey from the calculation of response rates is a standard practice. We will use the data States report in the outcomes reporting status element described in section 1356.83(g)(34) in calculating the participation rate. For example, for a State that does not sample there are 215 17-year-old youth in the baseline population who participate in the outcomes survey. Two years later, none of the 215 youth are in foster care and 5 of these youth become incapacitated, incarcerated or deceased. In another two years, 10 more of the original baseline youth become incapacitated, incarcerated or deceased. ACF will calculate whether the State has reported some outcomes information on 60% of the remaining 200 youth in the follow-up population at age 21 to determine whether the State has met its participation rate.

However, we want to be clear that even though outcomes information for incapacitated, incarcerated and deceased youth will be unavailable for the report period, a State must still report all other information for such youth. For example a State may not report outcome data for an incarcerated youth during a report period, but must report service information if she received independent living services that were paid for or provided by the State agency at some point in the report period. We will provide more technical guidance on these issues, as necessary, outside of regulation.

Comment: A few commenters objected to our basing compliance on a fixed participation rate at this time and suggested alternative approaches. One such commenter requested that we reconsider using a contact standard in which the State's compliance would be based on efforts to engage the youth rather than their actual participation. Another commenter suggested that we conduct a pilot study before deciding on any particular response rate, and a third suggested that we write into the regulation the option to reevaluate and revise the participation rates after implementation.

Response: As stated in the preamble to the NPRM, we ruled out using a contact rate standard upon which to base State compliance with the NYTD requirements. A contact rate would give the State credit for its efforts to solicit a youth's participation; however, we found difficulty in establishing an appropriate measure of a *bona fide*

contact. Further, a contact rate could not provide us with enough assurance that we would get sufficient data upon which to measure youth outcomes.

We do not believe another pilot study is warranted nor do we concur with the recommendation to build in an opportunity to lower the rate. We carefully considered the available research on similar populations of youth in our participation rate proposal and see no need to further delay implementation of the NYTD. Further, permitting a later reduction in the participation rates sets a low expectation that States will achieve the participation rate and suggests that we will not hold States accountable for achieving the rates. As such, we will retain specific participation rates in the final rule.

Foster Care Youth Participation Rate

In paragraph (b)(3)(i) we specify that the State must report outcome information on at least 80 percent of youth in the follow-up population who are in foster care on the date of outcomes data collection as indicated in section 1356.83(g)(35) and (g)(36).

Comment: Several commenters disagreed with the proposed foster care youth participation rate of 80 percent, asserting that it is not achievable. On the other hand, several other commenters believed that the foster care youth participation rate of 80 percent was achievable because locating youth who are still in the State agency's custody should not be problematic.

Response: In developing our proposal we carefully considered the available research on this population, what we believed was a reasonable expectation for States who still have responsibility for the youth's care and placement, and our necessity for ample information to meet the statutory mandate. We believe that the 80 percent participation rate is an appropriate standard and are retaining the proposed rate accordingly. *We want to be clear, however, that youth are only considered to be in foster care if they meet the definition in 45 CFR 1355.20, as referenced in section 1356.83(g)(36). This means that they must be children under the State's age of majority who are under the placement and care responsibility of the State title IV-B/IV-E agency.* We are not aware of any State in which 19- and 21-year-olds are in foster care in accordance with this definition at this time as typically States have defined their age of majority as 18. Therefore, in practical terms States will have to meet the 60 percent discharged youth participation rate.

Discharged Youth Participation Rate

In paragraph (b)(3)(ii), we specify the discharged youth participation rate. To comply, the State must report outcome information on at least 60 percent of youth who are in the follow-up population who are no longer in foster care on the date of outcomes data collection as indicated in section 1356.83(g)(35) and (g)(36).

Comment: Many commenters disagreed with the proposed discharged youth participation rate of 60 percent because they assert that it will be difficult to track young adults who may not continue to receive services from the State agency. Some commenters recommended reducing the participation rate because they believed that States should not be held responsible for the actions of young adults for whom they have no control or authority. Several of the commenters who opposed the 60 percent standard came up with a variety of alternative approaches, such as lowering the rate for 21-year-old youth, applying the rate to only those youth who are receiving services, and initially lowering the rate and then raising it over time.

Alternatively, several commenters recommended that we increase the discharged youth participation rate to 70 percent or higher in hopes of achieving a more accurate picture of outcomes for former foster youth. These commenters were concerned that States would inadvertently report data on only the most successful youth which would skew the outcomes information.

Response: We reassessed the discharged youth participation rate in light of the comments on both sides of this issue and continue to believe that 60 percent is appropriate. While we agree that the process of collecting outcomes data from youth no longer in the State's foster care will be challenging, we are seeking a standard that will provide us with a level of confidence in the outcome information that is reported to us. After considering the research on response rates and reviewing the Office of Management and Budget's guidance on surveys (see various publications at <http://www.whitehouse.gov/omb/inforeg/statpolicy.html#pr>), we do not believe that a rate lower than 60 percent would serve our purposes. We believe that compliance with this standard may be more difficult during the early part of NYTD implementation since States must have tracking procedures in place at startup to later locate youth no longer receiving services. Therefore, we believe that we can address many of the commenters' concerns by giving States

two full fiscal years to implement the NYTD. We believe that giving States more time to develop tracking procedures and to utilize technical assistance to address the challenges in obtaining outcomes data from this population is a better alternative to compromising our standard for obtaining data.

Effect of Sampling on Participation Rates

In paragraph (b)(3)(iii), we explain how the outcome participation rates will be applied to State agencies that choose to sample in accordance with section 1356.84.

We received no comments on this section. However, we are making a wording change to this provision to clarify that in calculating the participation rate for States that sample, we will apply the appropriate rate to the required sample size inclusive of the 30 percent attrition allowance. The previous wording used the phrasing "minimum" sample size, which may have suggested that we would apply the participation rate against the number resulting from the formula prior to increasing the sample by 30 percent to allow for attrition.

Errors

In paragraph (c) we define further the concept of data in error.

In paragraph (c)(1) we define missing data as any element that has a blank response, when a blank response is not a valid response option as described in the data element descriptions in section 1356.83(g).

Comment: One commenter informed us that we could expect missing data since the States are able to indicate that a youth declined participation or is otherwise unavailable to participate in the outcomes data collection.

Response: We believe the commenter may misunderstand what we mean by "missing data" and would like to take this opportunity to clarify the term. Situations in which the State reports that the youth did not participate in the outcomes data collection is not a missing data error. Rather, this information may be a factor in calculating the outcomes data participation rates as described in section 1356.85(b)(3).

For the purposes of the NYTD, "missing data" occurs when an element has a blank response when this is not a valid response option, such as a missing record number or no date of birth. Blank responses are valid when the youth is not in the reporting population to which an element applies as described within the data element descriptions. For

example, a State should report blank responses in the outcomes elements for a 15-year-old youth in the served population. Blank responses are also valid in the outcomes elements (g)(37) through (g)(58) when a youth does not participate in the outcomes data collection element as described at section 1356.83(g)(34)(ii) through (ix). We will provide a more complete accounting of missing data and other errors outside of regulation.

In paragraph (c)(2) we define out-of-range data as any element that contains a value that is outside the parameters of acceptable responses or exceeds, either positively or negatively, the acceptable range of response options as described in section 1356.83(g). No comments were received on this section and we are not making changes in the final rule.

In paragraph (c)(3) we define internally inconsistent data as any element that fails an internal consistency check designed to evaluate the logical relationship between elements in each record. No comments were received on this section, and we are retaining this provision as proposed.

Review for Compliance

In paragraph (d) we describe our process of reviewing a State's data file for compliance with the aforementioned standards.

Comment: One commenter requested clarification as to whether the NYTD would allow the use of default values and/or default mapping procedures. The commenter maintained that State agencies are not permitted to use default values and/or default mapping procedures in their State AFCARS.

Response: Defaulting, from our perspective, is the practice of automatically converting missing data for an element into a valid response option. We reject this practice in AFCARS generally because defaulting results in a misleading and inaccurate account of the information or lack of information collected, and as such we will not accept the practice in the NYTD. We have provided guidance regarding the use of defaults in AFCARS (see the National Resource Center for Child Welfare Data and Technology's Web site http://www.nrcwdt.org/rscs/rscs_facts_defaults.html) and intend to do so for the NYTD as well. However, because of the technical nature of defaulting procedures, more information will be provided outside the regulatory process.

In subparagraph (d)(1)(i), we explain that as long as the State is in compliance with the file submission standards, ACF will continue to assess the remaining file for compliance with the data

standards. No comments were received on this section, and we are retaining this provision as proposed.

In subparagraph (d)(1)(ii), we explain that we will notify the State if the State has not met the file submission standards so that the State can submit corrected data. No comments were received on this section and no changes are warranted to the final rule.

In paragraph (d)(2), we explain that we may use other monitoring tools that are not explicitly mentioned in the regulation to determine whether the State meets all requirements of the NYTD.

No comments were received on this section, and we are not making changes in the final rule.

Submitting Corrected Data and Noncompliance.

In paragraph (e), we outline a State's opportunity to correct any data that does not meet the compliance standards. No comments were received on this section, and we are retaining the provision as proposed.

In paragraph (e)(1), we explain that a State must submit a corrected file no later than the end of the subsequent reporting period as defined in section 1356.83(a) (*i.e.*, by September 30 or March 31). No comments were received on this section, and we are not making changes in the final rule.

In paragraph (e)(2), we explain that we will make a final determination that a State is out of compliance if a State's corrected data file does not meet the compliance standards described in section 1356.85. Similarly, we explain that we will determine that a State is out of compliance if the State chooses not to submit a corrected data file or submits a corrected data file inconsistent with the requirements described in section 1356.85(e)(1). This final determination of noncompliance means that the State will be subject to the penalties described in section 1356.86. No comments were received on this section, and we are not making changes in the final rule.

Section 1356.86 Penalties for Noncompliance

This section sets forth a penalty structure for States agencies that are out of compliance with the NYTD standards following an opportunity to submit corrected data.

In paragraph (a) we define which funds will be subject to a penalty for a State agency that is out of compliance with NYTD standards.

Comment: We received many comments requesting that a State's annual allotment of ETV funds (section

477(h)(2) of the Act) be excluded from the penalty pool. Most of the commenters pointed out that unlike the general CFCIP funds which States can use broadly to fund independent living services, the ETV program provides direct financial assistance to former foster youth who are working productively to achieve independence through a higher education. Therefore, reducing ETV funds for a State's failure to comply with data collection requirements was contrary to the goals of the ETV program because it would deprive certain youth of an opportunity to pursue post-secondary education. Other commenters believed that including ETV funds in a penalty was inconsistent with Congressional intent because the data collection and penalty provisions in the law preceded the enactment of the ETV program. A few commenters maintained that a State's annual allotment of ETV funds should not be subject to a penalty for noncompliance with NYTD data requirements because those requirements are more focused on general independent living services rather than education and training vouchers.

Response: We have given serious consideration to the commenters concerns and are persuaded that there are good reasons for excluding ETV funds from the funds subject to a penalty for State noncompliance with the data requirements. When we look at the law as a whole, there is support for concluding that ETV funds should be excluded from the penalty pool because ETV funds may not generally be used for the data collection activities required by NYTD. The statute and our policy permit a State to use ETV funds only for vouchers to youth for higher education and the associated administrative activities necessary to provide the vouchers (section 477(h)(2) of the Act and Child Welfare Policy Manual Section 3.3F Q/A #1). Therefore, including ETV funds in the penalty pool for lack of compliance with NYTD requirements would have the incongruous consequence of depriving a State of funds which it could not use for NYTD.

We also reviewed the legislative history, and there is no indication that Congress considered the inclusion of the ETV funds in the data collection penalty pool. Rather, the legislative history indicates quite clearly that the ETV funds are authorized and appropriated separately from the CFCIP funds so that they could be dedicated to funding higher education for youth (House Report 107-281, pp. 12, 21-22). Including ETV funds in the penalty pool

would be contrary to the purpose of the program, and we are amending the final rule to exclude ETV from the calculation of the penalty.

Comment: A few commenters suggested that States should not be subject to a penalty for noncompliance with NYTD standards.

Response: Section 477(e)(2) of the Act requires us to assess a penalty against a State that fails to comply with the information collection plan as implemented by ACF. We crafted the penalty structure carefully within the statutory parameters with the goal of obtaining quality data that can be used to understand services and improve youth outcomes. As such, in line with the statute, we are retaining the penalty as proposed in the NPRM with the modification to exclude ETV funds from the calculation of the NYTD penalty pool.

In paragraph (b) we specify the penalty amounts that will be assessed for States we determine to be out of compliance with NYTD file submission and data standards.

Comment: Several commenters suggested that we provide financial incentives to State agencies that meet or exceed NYTD standards. The commenters suggested that we could integrate such State financial incentives into the penalty structure for State noncompliance with NYTD standards. One commenter disagreed with the approach to an incentive structure as we described in the NPRM and suggested we conceptualize incentives in terms of “added rewards rather than a penalty reduction.”

Response: Section 477 of the Act does not make funds available to the States for achieving or exceeding a specified NYTD standard. Further, the requirement to assess a penalty against a State that fails to comply with a data reporting requirement is statutory and specified in section 477(e)(2) of the Act. Therefore, we cannot provide financial incentives. In the preamble of the NPRM, we described our initial thinking on how a penalty reduction could be an unconventional incentive that works within the statutory framework. However, we did not receive any comments that indicated that a penalty reduction would provide an incentive to States and we are not including it as a feature in the final rule.

Comment: Several commenters requested that we permit a State to use funds that would otherwise be penalized for noncompliance with NYTD requirements if the State agency agrees to correct the identified deficiencies in the State’s data. These commenters referred to this as a

“reinvestment” approach that could replace the penalty structure for noncompliance with NYTD standards.

Response: The statute requires us to take a penalty for State noncompliance with NYTD data requirement pursuant to section 477(e)(2) of the Act. We believe that it would be contrary to the purposes of the statute to assess a penalty against a State agency for noncompliance and then subsequently make any portion of those funds available to the State. Therefore, we are not permitting States to reinvest penalized funds in the final rule.

In paragraph (b)(1), we specify that we will assess a penalty in the amount of two and one-half percent (2.5 percent) of the funds subject to a penalty for each reporting period in which we make a final determination that the State’s data file does not comply with the file submission standards defined in section 1356.85(a).

Comment: A commenter was concerned that a file submission penalty in the amount of 2.5 percent would have a negative impact on the CFCIP independent living services available to youth in the State.

Response: The statute requires us to penalize States in an amount that ranges from 1 percent to 5 percent of their CFCIP allotment for not complying with the data collection requirements. As we explained in the preamble to the NPRM, we proposed to assess the largest possible penalty (for the reporting period) if the State did not achieve any one of the file submission timeliness, format, and quality standards. We reasoned that we will not have useable information in a timely fashion if the State agency does not meet such standards described in section 1356.85(a). We are not persuaded by the commenter that the amount specified is unreasonable and warrants a change to the final rule.

In paragraph (b)(2)(i), we specify that ACF will assess a penalty in the amount of one and one quarter percent (1.25 percent) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency’s data file does not comply with the data standard for error-free data as defined in section 1356.85(b)(1).

Comment: One commenter expressed a concern that the 1.25 percent penalty for non-compliance with the data standard for error-free data for each reporting period, as defined in section 1356.85(b)(1), is too costly for States.

Response: As we stated in the NPRM, we have applied a significant penalty amount to the error-free compliance standard because we believe the State

must ensure that NYTD data reported to us meet important quality standards. Errors in the demographic, service, and outcome data (i.e., missing, out-of-range, and/or internally inconsistent data) significantly undermine the aims of the NYTD. Given the degree of importance of error-free data to this dataset, we have made no changes in the final rule in response to this comment.

In paragraph (b)(2)(ii), we specify that ACF will assess a penalty in the amount of one and one quarter percent (1.25 percent) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency’s data file does not comply with the outcome universe standard as defined in section 1356.85(b)(2). No comments were received on this section, and no changes have been made to the final rule.

In paragraph (b)(2)(iii) we specify that ACF will assess a penalty in the amount of one half of one percent (0.5 percent) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency’s data file does not comply with the foster care youth participation rate defined in section 1356.85(b)(3)(i).

Comment: One commenter asked whether there are acceptable reasons for a State’s inability to report youth outcomes information to us. If so, the commenter asked whether a State would be subject to a penalty if youth outcomes information could not be reported to us for such acceptable reasons.

Response: We are not prescribing ‘acceptable reasons’ for the State’s inability to obtain outcomes information, rather the State must meet participation rates for the population as a whole to be in compliance with the NYTD requirements. We require the State to report the reason it is unable to collect outcomes information on a youth in the baseline or follow-up reporting populations through the outcomes reporting status data element described in section 1356.83(g)(34). The State will be held accountable for achieving 80 percent participation from the follow-up population in foster care and 60 percent participation from the follow-up population no longer in foster care. As noted in the discussion on section 1356.85(b)(3), there are three subgroups that we will not include in calculating whether a State achieved the youth participation rate (deceased, incapacitated and incarcerated), which means that the State will not be penalized for failing to collect outcomes data on these youth.

In paragraph (b)(2)(iv) we specify that ACF will assess a penalty in the amount

of one half of one percent (0.5 percent) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the discharged youth participation rate standard defined in section 1356.85(b)(3)(ii).

Comment: We received a number of comments opposing a penalty for States that we find out of compliance with the discharged youth participation rate standard. Primarily, commenters believed we should not penalize States for not reporting information on youth for whom the State has no control or authority.

Response: As we stated in the NPRM, we recognize that collecting outcome data directly from youth discharged from foster care is one of the most challenging aspects of the NYTD. However, we consider the 0.5 percent penalty to be a relatively small penalty amount. Further, we chose a 0.5 percent penalty because the amount of the penalty had to be small enough so that in combination with other potential penalties, the maximum penalty would not be exceeded for the Federal fiscal year (5.0 percent). Additionally, we wanted to ensure that the penalties for failing to meet the participation rates did not exceed the penalties for a State failing to submit data on the outcomes universe. Thus, we have made no changes to the final rule in response to these comments.

In paragraph (c), we describe how we will take into account the assessed penalties in determining a final amount of a State's penalty for noncompliance with NYTD file submission and data standards.

Comment: One commenter disagreed with the approach to "round-up" the State agency penalty amount to one percent, if it is actually less than that.

Response: The statute at section 477(e)(2) of the Act requires us to assess a penalty in an amount of at least one percent of a State's CFCIP allotment for the Federal fiscal year for noncompliance with NYTD standards. As we discussed in the preamble to the NPRM, a State's assessed penalty could be less than one percent for the first reporting period because we proposed penalties based on State compliance for each six-month reporting period. In such a situation, we will determine that the State's penalty amount is one percent of the State's annual CFCIP allotment for the first reporting period accordingly. However, in the event that the State is in noncompliance with any standard in the subsequent six-month reporting period in the Federal fiscal year, we will not penalize the State

more than the actual calculated penalty amount for the fiscal year. We have made only minor editorial changes to this provision and no substantive changes in response to these comments.

In paragraph (d), we describe how we will notify States officially of our final determination that the State is out of compliance with the file submission or data standards following an opportunity for corrective action. We received no comments on this section, and we are not making changes in the final rule.

In paragraph (e), we explain that a State will be liable for applicable interest on the amount of funds we penalize, in accordance with the regulations at 45 CFR 30.13. We received no comments on this section and are not making changes in the final rule.

In paragraph (f), we explain that a State will have an opportunity to appeal a final determination that the State is out of compliance to the HHS Departmental Appeals Board (DAB) consistent with DAB regulations in 45 CFR part 16. We received no comments on this section. However, we are making a couple of technical changes to refer consistently to the body as the Departmental Appeals Board and remove the language in the NPRM that referred to an appeal of "any subsequent withholding or reduction of funds." We have made this change to clarify that a State can appeal ACF's final determination of noncompliance which will include an assessment of a financial penalty, but that there is not an opportunity for appeal to the DAB associated with ACF's withholding of funds that is separate from the final determination of noncompliance.

Comments on Cost and Burden Estimates

Comment: One commenter stated that this rule was an "unfunded mandate."

Response: The Unfunded Mandates Reform Act requires us to assess whether the rule imposes mandates on governments or the private sector that will result in an annual expenditure of \$100 million or more. We have determined that the approximate annual costs to States to comply with the information collection requirements identified in the "Paperwork Reduction Act" section will be approximately \$13 million, which includes costs that may be reimbursed by the Federal government as SACWIS expenditures. The hour burden associated with the information collection requirements is anticipated to be approximately \$3 million for all States annually, some of which may be paid for with CFCIP

funds. Therefore, this rule will not impose costs of \$100 million or more.

Comment: A commenter requested that we clarify the components of the NYTD requirements that we require to be incorporated into SACWIS and therefore may be claimed as title IV-E administrative costs under SACWIS.

Response: States that have elected to build a SACWIS must incorporate NYTD information collection and reporting activities related to children in foster care into their SACWIS system. Regulations at 45 CFR 1355.53(b)(3) and (4) as well as policy at ACF-OISM-001 (part IV) direct States to incorporate all case management and service functions for children in foster care into their SACWIS. Specific components of the NYTD that are included in a State's SACWIS are subject to the APD process. More specific guidance on SACWIS requirements and allowable costs will be issued outside of this regulation.

Comment: A couple of commenters requested guidance on the Federal funding sources States may use to pay for the costs related to the NYTD and whether title IV-E reimbursement is available for States that do not incorporate NYTD functionality into their SACWIS systems.

Response: A State may use CFCIP funds for any and all costs associated with implementing the NYTD. A State with a SACWIS must incorporate NYTD information collection and reporting activities related to children in foster care into their SACWIS system and may claim such information system costs as administrative costs under title IV-E to the extent they are allowable and consistent with a State's APD and cost allocation plan (45 CFR 1355.50-1355.57 and 1356.60(e)).

A State may not claim reimbursement under title IV-E for NYTD information system costs that are not incorporated into an approved APD for a SACWIS. The authority to claim information systems costs under title IV-E in section 1356.60(d) is limited to collecting and reporting data necessary to meet the AFCARS requirements in 45 CFR 1355.40 and those necessary for the proper and efficient administration of the title IV-E State plan and not the CFCIP plan.

Comment: A number of commenters requested additional Federal funding to meet aspects of the NYTD requirements, particularly those related to the outcomes component. For example, commenters requested funds for contracting out the responsibility to track and survey older youth for their outcomes, for fiscal incentives to encourage the participation of youth in the outcomes survey, and for

entitlement funding to reimburse States for some portion of the information system costs that are not currently reimbursable under SACWIS or for those States that do not have a SACWIS. These commenters believed that the Federal government should offset the costs associated with complying with this rule to eliminate the possibility of States reducing the level of services to youth.

Response: There is no additional Federal funding set-aside for the NYTD. The CFCIP program was created with a mandate for States to collect data, but the statute does not set-aside funds for that specific purpose. As mentioned previously, in addition to CFCIP funds, certain costs may be eligible for Federal financial participation under title IV-E at the 50 percent matching rate depending on whether the costs to develop and implement the NYTD are allowable costs under a State's APD for SACWIS. In these ways, the Federal government is providing funding to assist States in complying with the NYTD requirements.

Comment: Many commenters disagreed with our description of the cost to the States as a result of this rule as minor per Executive Order 12866. These commenters asserted the NPRM underestimates the actual costs the States would incur to implement the mandates of this rule, a few of whom provided their own estimates, although most did not. The commenters' estimates addressed different aspects of the costs. Two commenters estimated that tracking costs for approximately 240 to 300 youth in the follow-up population would cost \$36,000 to \$54,000 per year. Another commenter estimated State information technology costs at between \$100,000 and \$150,000 for the first 5 years of implementation. A different commenter suggested the overall costs of the rule to be between \$200,000–\$300,000 during the first three years of implementation.

Response: The comments we received from States regarding anticipated start-up and annual costs are in line with our original estimates. We expect that, on average, business process start-up costs, travel and training, process development, IT start-up operational and maintenance costs will be approximately \$250,000 per State per year. Many of these costs can be matched at 50 percent Federal financial participation for a State that has a SACWIS. We originally characterized these costs as minor, but we are aware of the impact the cost of implementation will have on States. In order to be in compliance with the statutory requirements we must collect the

necessary independent living service and youth outcome information.

Comment: Several commenters acknowledged that costs to implement this rule would vary across the States. A commenter believed that smaller States would be disproportionately impacted by this rule because system development costs are independent of the size of the population served, *i.e.*, States with smaller service populations would have to devote a greater percentage of their Federal CFCIP funds to meet the NYTD requirements relative to States with larger service populations of youth targeted by this rule. Another commenter explained that county-administered States would find implementation of this rule more challenging because of the increased responsibility to coordinate among the counties.

Response: We recognize that the reporting and recordkeeping burden is disproportionately higher for small States because they need to develop the same functionality as large States regardless of the number of youth reported. Some State costs are not affected by the number of youth in the reporting population. We also recognize that county-administered States may face more challenges in implementation; but see no need to change the rule in response. Each State will have different costs depending on its population of youth and the changes required in its information system and business procedures to meet the requirements in the regulation.

Comment: Many comments we received noted that current State agency staff are already overburdened with meeting existing expectations, and are, therefore, unable to implement this rule. In this vein, many commenters expressed a concern that we underestimated the costs of implementing this rule by not factoring in the cost of hiring extra staff and/or specialized staff to meet the requirements of the NYTD.

Response: We realize that some States may wish to hire additional staff to implement this rule. However, in general, we do not think that that implementing the NYTD will put an excessive burden on State agency staff given our burden estimates. We do acknowledge that the NYTD represents a change in the way that some State agencies conduct their business and there is burden associated with that change. Our estimates take into consideration a range of State costs, inclusive of staff time, that may result from this rule.

Comment: We received many comments that disagreed with our

determination of burden estimates and asserted that we underestimated the actual amount of staff time that is required to collect and record services, demographic and characteristics data; track the whereabouts of the youth in the follow-up population; garner youth consent; and collect and report outcome survey data. A couple of commenters believed that more realistic estimates to collect outcomes data from youth would be between 30 to 60 minutes. Another commenter estimated it would take one quarter hour for staff just to report outcome data, and the collection of such data would require extra time. A final commenter believed that we should pilot test the final NYTD to come up with better estimates of hour burden.

Response: We have reexamined our initial estimates related to collecting and recording services, demographics, characteristics data as well the outcome data. The estimate for the average amount of staff time per youth to collect and record services, demographic and characteristics data of 30 minutes per youth per reporting period is based on a pilot test and on experience with AFCARS and other data systems. Most, if not all, of the information required for these three areas should be readily available either in the case file or through the case worker. We do not expect that the time spent collecting and recording this information for each youth will take longer than 30 minutes on average.

We do agree with the commenters that the estimate in the NPRM for completing the youth outcomes survey is low and have adjusted our estimate upwards to take into account the necessary time for the youth to complete the survey and for the State to incorporate that information into the State's database. In reexamining the number of questions on the outcomes survey, we estimate that it will take youth approximately one half hour to complete the survey and 15 more minutes for States to record the outcomes information.

IV. Impact Analysis

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this final rule is consistent with these priorities and principles. In particular, we have determined that a regulation is the best and most cost-effective way to implement the statutory mandate for a data collection system to track the independent living services

States provide to youth and develop outcome measures that may be used to assess State performance. Moreover, we have consulted with the Office of Management and Budget (OMB) and determined that these rules meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were subject to OMB review.

Regulatory Flexibility Analysis

The Secretary certifies under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this rule will not result in a significant impact on a substantial number of small entities. This final rule does not affect small entities because it is applicable only to State agencies that administer child and family services programs and the title IV-E CFCIP program.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act (Pub. L. 104-4) requires agencies to prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation). This rule does not impose any mandates on State, local or tribal governments, or the private sector that will result in an annual expenditure of \$100 million or more.

We estimate State costs per year will be approximately \$250,000 per State for an annual total of about \$13 million per year. Many of the costs that States incur as a result of the NYTD may be eligible for Federal financial participation under title IV-E at the 50 percent rate. We therefore estimate the Federal government to reimburse States for approximately \$6.5 million of their costs annually. States may also use their allotment of Federal CFCIP funds to implement NYTD. Additional costs to the Federal government to develop and implement a system to collect NYTD data are expected to be minimal.

Paperwork Reduction Act

Under the Paperwork Reduction Act (Pub. L. 104-13), all Departments are required to submit to OMB for review and approval any reporting or record-keeping requirements inherent in a proposed or final rule. This final rule contains information collection requirements in sections 1356.82 and 1356.83 that the Department has submitted to OMB for its review. ACF will publish a second **Federal Register** notice when the associated information collection requirements have been approved by OMB and are effective. The respondents to the information collection in this final rule are State agencies.

The Department requires this collection of information to address the

data collection requirements of the John H. Chafee Foster Care Independence Program. Specifically, the law requires the Secretary to track youth demographics, characteristics and independent living services and to develop outcome measures that can be used to assess the performance of States in operating independent living programs.

This information collection will be comprised of a:

(1) *Data File*. The State's submission to ACF of two semi-annual data files that contain information on all data elements regarding youth services, demographics, characteristics and outcomes. A State will collect this information on an ongoing basis. The total annual burden will vary from year to year; the burden will be lower in years in which States do not have to collect information on youth outcomes. Years in which a State must expend effort to track or maintain contacts with youth as they age from 17 years old through 21 and collect outcomes data will have the highest total burden hours; and,

(2) *Youth Outcome Survey*. A survey composed of up to 22 questions on youth outcomes (that correspond with 22 data elements in the first instrument) to be completed by youth in the baseline and/or follow-up populations.

The following are estimates:

FFY 2011

Instruments (subcomponents)	Number of respondents	Number of responses per respondent	Average burden per response (hrs)	Total burden hours (hrs)
1. Data File	52	2	1,355	140,920
Services			1,259	130,936
Outcomes			*96	9,958
Tracking			0	0
2. Youth Outcome Survey	39,832	1	0.5	19,916
Total burden for both collections				160,836

*Number is rounded.

FFY 2012

Instruments (subcomponents)	Number of respondents	Number of responses per respondent	Average burden per response (hrs)	Total burden hours (hrs)
1. Data File	52	2	1642	170,768
Services			1,259	130,936
Outcomes			0	0
Tracking			383	39,832
2. Youth Outcome Survey	0	0	0	0
Total burden for both collections				170,768

FFY 2013

Instruments (subcomponents)	Number of respondents	Number of responses per respondent	Average burden per response (hrs)	Total burden hours (hrs)
1. Data File	52	2	1719	178,737
Services			1,259	130,936
Outcomes			*77	7,969
Tracking			383	39,832
2. Youth Outcome Survey	31,876	1	0.5	15,938
Total burden for both collections				194,675

Burden Estimates in FFY 2010

In FFY 2010, States will have to begin changing their internal business procedures and information systems to meet the information collection requirements in the subsequent fiscal year. However, actual data collection and reporting is required in the subsequent fiscal year so there is no hour burden associated with the information collection for FY 2010 in accordance with the PRA.

Burden Estimates in FFY 2011

With regard to the data file instrument, we estimate that there will be approximately 2,518 youth who receive services annually per State. Each State will expend on average approximately 30 minutes (0.5 hours) to collect the services, demographics and characteristics information from those youth resulting in an hour burden of 1,259 per State each report period. FFY 2011 will be the first year the State administers the youth outcomes survey for the baseline population of 17-year-olds in foster care. We estimate on average 15 minutes (0.25 hours) for States to record the youth survey outcome information that will be reported in the data file. We estimate that there will be approximately 766 17-year-old youth in foster care at this time resulting in 96 burden hours to record this information each report period. We are not estimating a burden related to maintaining contacts with youth (*i.e.*, tracking) during this year as we expect States to know the whereabouts of the 17-years-olds still in foster care. Total hour burden for the data file instrument is 140,920.

With regard to the youth outcome survey instrument, we are estimating that it will take the estimated 39,832 youth nationwide approximately 30 minutes to complete the outcomes survey, resulting in a total of 19,916 burden hours.

Burden Estimates in FFY 2012

With regard to the data file instrument, we estimate the same 1,259 hour burden per State per report period

associated with collecting and reporting youth independent living services, demographics and characteristics information as in the previous year. In FFY 2012, however, there will be no youth outcome survey administered, so there is no burden associated with such reporting. However, States will have to maintain contacts with youth who have participated in the baseline population at age 17 so that they can solicit their participation in the youth outcomes data instrument collection when such youth turn 19-years-old. Therefore, we have estimated that each State will spend approximately 30 minutes (0.5 hours) per youth per report period to track approximately 766 youth, resulting in a total burden of 383 burden hours per State. Total hour burden for this instrument in year 2 is 170,768.

There is no outcomes data collection in FFY 2012, so there are no hour burdens associated with the youth outcome survey instrument.

Burden Estimates in FFY 2013

With regard to the data file instrument, the only difference from the previous year is with regard to the addition of an estimate for outcomes data recording and reporting related to the 19-year-olds in the follow-up population. We are estimating on average 15 minutes (0.25 hours) for States to record the outcomes information that will be reported in the data file for the approximately 613 youth in each State per report period. The number of youth is reduced as we expect States to obtain the participation of 80 percent of those youth who participated previously at age 17 (766). This results in approximately 77 burden hours per State per report period. Total hour burden for the data file is 178,737.

With regard to the outcome survey instrument, we are estimating that it will take the estimated 31,876 youth nationwide approximately 30 minutes to complete the outcomes survey, resulting in a total of 15,938 burden hours. Again, we have estimated that approximately 80 percent of the youth who participated in the outcomes data

collection at age 17 will participate again at age 19 during this fiscal year.

The three year average hour burden (FFYs 2011 through 2013) for both data files is 175,426.

The reader should note that the numbers of youth used for this estimate is based on the same data cited in the NPRM (see 71 FR 40369 to 40370). More recent AFCARS data indicate that the number of youth in foster care has declined somewhat, but since these numbers can fluctuate, we thought it best to use the same numbers for comparison purposes and to minimize confusion. The actual number of youth in any given year may change and affect these estimates, as would the decision of a State to sample youth rather than follow the larger population of youth who participate in the outcomes data collection. Finally, we chose to separate the year burdens into multiple charts to aid the reader in distinguishing the hour burdens associated with different fiscal years of implementation.

Congressional Review

This regulation is not a major rule as defined in 5 U.S.C. Chapter 8.

Assessment of Federal Regulations on Policies and Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing criteria specified in the law. These regulations will not have a significant impact on family well-being as defined in the legislation. By tracking independent living services provided to youth, developing outcome measures, and assessing a State's performance in operating an independent living program, we expect that States will be able to improve their programs for youth in foster care based on an understanding of how their services affect youth outcomes through this data, which will lead to positive influences on the

behavior and personal responsibility of youth.

Executive Order 13132

Executive Order 13132 on Federalism requires that Federal agencies consult with State and local government officials in the development of regulatory policies with Federalism implications. Consistent with Executive Order 13132, we specifically solicit comment from State and local government officials on this final rule.

List of Subjects in 45 CFR Part 1356

Adoption and Foster Care.

[Catalog of Federal Domestic Assistance Program Number 93.658, Foster Care Maintenance]

Dated: September 7, 2007.

Daniel C. Schneider,

Acting Assistant Secretary for Children and Families.

Approved: November 9, 2007.

Michael O. Leavitt,

Secretary, Department of Health and Human Services.

■ For the reasons set out in the preamble, 45 CFR part 1356 is amended as follows:

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV—E

■ 1. The authority citation for part 1356 continues to read as follows:

Authority: 42 U.S.C. 620 *et seq.*, 42 U.S.C. 670 *et seq.*; 42 U.S.C. 1302.

■ 2. Add §§ 1356.80 through 1356.86 to part 1356 to read as follows:

§ 1356.80 Scope of the National Youth in Transition Database.

The requirements of the National Youth in Transition Database (NYTD) §§ 1356.81 through 1356.86 of this part apply to the agency in any State, the District of Columbia, or Territory, that administers, or supervises the administration of the Chafee Foster Care Independence Program (CFCIP) under section 477 of the Social Security Act (the Act).

§ 1356.81 Reporting population.

The reporting population is comprised of all youth in the following categories:

(a) *Served population.* Each youth who receives an independent living service paid for or provided by the State agency during the reporting period.

(b) *Baseline population.* Each youth who is in foster care as defined in 45 CFR 1355.20 and reaches his or her 17th birthday during Federal fiscal year (FFY) 2011, and such youth who reach a 17th birthday during every third year thereafter.

(c) *Follow-up population.* Each youth who reaches his or her 19th or 21st birthday in a Federal fiscal year and had participated in data collection as part of the baseline population, as specified in section 1356.82(a)(2) of this part. A youth has participated in the outcomes data collection if the State agency reports to ACF a valid response (*i.e.*, a response option other than “declined” and “not applicable”) to any of the outcomes-related elements described in section 1356.83(g)(37) through (g)(58) of this part.

§ 1356.82 Data collection requirements.

(a) The State agency must collect applicable information as specified in section 1356.83 of this part on the reporting population defined in section 1356.81 of this part in accordance with the following:

(1) For each youth in the served population, the State agency must collect information for the data elements specified in section 1356.83(b) and 1356.83(c) of this part on an ongoing basis, for as long as the youth receives services.

(2) For each youth in the baseline population, the State agency must collect information for the data elements specified in section 1356.83(b) and 1356.83(d) of this part. The State agency must collect this information on a new baseline population every three years.

(i) For each youth in foster care who turns age 17 in FFY 2011, the State agency must collect this information within 45 days following the youth’s 17th birthday, but not before that birthday.

(ii) Every third Federal fiscal year thereafter, the State agency must collect this information on each youth in foster care who turns age 17 during the year within 45 days following the youth’s 17th birthday, but not before that birthday.

(iii) The State agency must collect this information using the survey questions in Appendix B of this part entitled “Information to collect from all youth surveyed for outcomes, whether in foster care or not.”

(3) For each youth in the follow-up population, the State agency must collect information on the data elements specified in sections 1356.83(b) and 1356.83(e) of this part within the reporting period of the youth’s 19th and 21st birthday. The State agency must collect the information using the appropriate survey questions in Appendix B of this part, depending upon whether the youth is in foster care.

(b) The State agency may select a sample of the 17-year-olds in the baseline population to follow over time

consistent with the sampling requirements described in section 1356.84 of this part to satisfy the data collection requirements in paragraph (a)(3) of this section for the follow-up population. A State that samples must identify the youth at age 19 who participated in the outcomes data collection as part of the baseline population at age 17 who are not in the sample in accordance with 45 CFR 1356.83(e).

§ 1356.83 Reporting requirements and data elements.

(a) *Reporting periods and deadlines.* The six-month reporting periods are from October 1 to March 31 and April 1 to September 30. The State agency must submit data files that include the information specified in this section to ACF on a semi-annual basis, within 45 days of the end of the reporting period (*i.e.*, by May 15 and November 14).

(b) *Data elements for all youth.* The State agency must report the data elements described in paragraphs (g)(1) through (g)(13) of this section for each youth in the entire reporting population defined in section 1356.81 of this part.

(c) *Data elements for served youth.* The State agency must report the data elements described in paragraphs (g)(14) through (g)(33) of this section for each youth in the served population defined in section 1356.81(a) of this part.

(d) *Data elements for baseline youth.* The State agency must report the data elements described in paragraphs (g)(34) through (g)(58) of this section for each youth in the baseline population defined in section 1356.81(b) of this part.

(e) *Data elements for follow-up youth.* The State agency must report the data elements described in paragraphs (g)(34) through (g)(58) of this section for each youth in the follow-up population defined in section 1356.81(c) of this part or alternatively, for each youth selected in accordance with the sampling procedures in section 1356.84 of this part. A State that samples must identify in the outcomes reporting status element described in paragraph (g)(34), the 19-year-old youth who participated in the outcomes data collection as a part of the baseline population at age 17, who are not in the sample.

(f) *Single youth record.* The State agency must report all applicable data elements for an individual youth in one record per reporting period.

(g) *Data element descriptions.* For each element described in paragraphs (g)(1) through (58) of this section, the State agency must indicate the applicable response as instructed.

(1) *State*. State means the State responsible for reporting on the youth. Indicate the first two digits of the State's Federal Information Processing Standard (FIPS) code for the State submitting the report to ACF.

(2) *Report date*. The report date corresponds with the end of the current reporting period. Indicate the last month and the year of the reporting period.

(3) *Record number*. The record number is the encrypted, unique person identification number for the youth. The State agency must apply and retain the same encryption routine or method for the person identification number across all reporting periods. The record number must be encrypted in accordance with ACF standards. Indicate the record number for the youth.

(i) If the youth is in foster care as defined in 45 CFR 1355.20 or was during the current or previous reporting period, the State agency must use and report to the NYTD the same person identification number for the youth the State agency reports to AFCARS. The person identification number must remain the same for the youth wherever the youth is living and in any subsequent NYTD reports.

(ii) If the youth was never in the State's foster care system as defined in 45 CFR 1355.20, the State agency must assign a person identification number that must remain the same for the youth wherever the youth is living and in any subsequent reports to NYTD.

(4) *Date of birth*. The youth's date of birth. Indicate the year, month, and day of the youth's birth.

(5) *Sex*. The youth's sex. Indicate whether the youth is male or female as appropriate.

(6) *Race: American Indian or Alaska Native*. In general, a youth's race is determined by the youth or the youth's parent(s). An American Indian or Alaska Native youth has origins in any of the original peoples of North or South America (including Central America), and maintains tribal affiliation or community attachment. Indicate whether this racial category applies for the youth, with a "yes" or "no."

(7) *Race: Asian*. In general, a youth's race is determined by the youth or the youth's parent(s). An Asian youth has origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam. Indicate whether this racial category applies for the youth, with a "yes" or "no."

(8) *Race: Black or African American*. In general, a youth's race is determined by the youth or the youth's parent(s). A Black or African American youth has origins in any of the black racial groups of Africa. Indicate whether this racial category applies for the youth, with a "yes" or "no."

(9) *Race: Native Hawaiian or Other Pacific Islander*. In general, a youth's race is determined by the youth or the youth's parent(s). A Native Hawaiian or Other Pacific Islander youth has origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. Indicate whether this racial category applies for the youth, with a "yes" or "no."

(10) *Race: White*. In general, a youth's race is determined by the youth or the youth's parent(s). A White youth has origins in any of the original peoples of Europe, the Middle East, or North Africa. Indicate whether this racial category applies for the youth, with a "yes" or "no."

(11) *Race: unknown*. The race, or at least one race of the youth is unknown, or the youth and/or parent is not able to communicate the youth's race.

Indicate whether this category applies for the youth, with a "yes" or "no."

(12) *Race: declined*. The youth or parent has declined to identify a race. Indicate whether this category applies for the youth, with a "yes" or "no."

(13) *Hispanic or Latino ethnicity*. In general, a youth's ethnicity is determined by the youth or the youth's parent(s). A youth is of Hispanic or Latino ethnicity if the youth is a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Indicate which category applies, with "yes," "no," "unknown" or "declined," as appropriate. "Unknown" means that the youth and/or parent is unable to communicate the youth's ethnicity. "Declined" means that the youth or parent has declined to identify the youth's Hispanic or Latino ethnicity.

(14) *Foster care status—services*. The youth receiving services is or was in foster care during the reporting period if the youth is or was in the placement and care responsibility of the State title IV-B/IV-E agency in accordance with the definition of foster care in 45 CFR 1355.20. Indicate whether the youth is or was in foster care at any point during the reporting period, with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(15) *Local agency*. The local agency is the county or equivalent jurisdictional unit that has primary responsibility for placement and care of a youth who is

in foster care consistent with the definition in 45 CFR 1355.20, or that has primary responsibility for providing services to a youth who is not in foster care. Indicate the five-digit Federal Information Processing Standard (FIPS) code(s) that corresponds to the identity of the county or equivalent unit jurisdiction(s) that meets these criteria during the reporting period. If a youth who is not in foster care is provided services by a centralized unit only, rather than a county agency, indicate "centralized unit." If the youth is not in the served population this element must be left blank.

(16) *Federally recognized tribe*. The youth is enrolled in or eligible for membership in a federally recognized tribe. The term "federally recognized tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450 *et seq.*). Indicate "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(17) *Adjudicated delinquent*. Adjudicated delinquent means that a State or Federal court of competent jurisdiction has adjudicated the youth as a delinquent. Indicate "yes," or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(18) *Educational level*. Educational level means the highest educational level completed by the youth. For example, for a youth currently in 11th grade, "10th grade" is the highest educational level completed. Post-secondary education or training refers to any post-secondary education or training, other than an education pursued at a college or university. College refers to completing at least a semester of study at a college or university. Indicate the highest educational level completed by the youth during the reporting period. If the youth is not in the served population this element must be left blank.

(19) *Special education*. The term "special education," means specifically designed instruction, at no cost to parents, to meet the unique needs of a child with a disability. Indicate whether the youth has received special

education instruction during the reporting period with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(20) *Independent living needs assessment.* An independent living needs assessment is a systematic procedure to identify a youth’s basic skills, emotional and social capabilities, strengths, and needs to match the youth with appropriate independent living services. An independent living needs assessment may address knowledge of basic living skills, job readiness, money management abilities, decision-making skills, goal setting, task completion, and transitional living needs. Indicate whether the youth received an independent living needs assessment that was paid for or provided by the State agency during the reporting period with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(21) *Academic support.* Academic supports are services designed to help a youth complete high school or obtain a General Equivalency Degree (GED). Such services include the following: Academic counseling; preparation for a GED, including assistance in applying for or studying for a GED exam; tutoring; help with homework; study skills training; literacy training; and help accessing educational resources. Academic support does not include a youth’s general attendance in high school. Indicate whether the youth received academic supports during the reporting period that were paid for or provided by the State agency with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(22) *Post-secondary educational support.* Post-secondary educational support are services designed to help a youth enter or complete a post-secondary education and include the following: Classes for test preparation, such as the Scholastic Aptitude Test (SAT); counseling about college; information about financial aid and scholarships; help completing college or loan applications; or tutoring while in college. Indicate whether the youth received post-secondary educational support during the reporting period that was paid for or provided by the State agency with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(23) *Career preparation.* Career preparation services focus on developing a youth’s ability to find, apply for, and retain appropriate

employment. Career preparation includes the following types of instruction and support services: Vocational and career assessment, including career exploration and planning, guidance in setting and assessing vocational and career interests and skills, and help in matching interests and abilities with vocational goals; job seeking and job placement support, including identifying potential employers, writing resumes, completing job applications, developing interview skills, job shadowing, receiving job referrals, using career resource libraries, understanding employee benefits coverage, and securing work permits; retention support, including job coaching; learning how to work with employers and other employees; understanding workplace values such as timeliness and appearance; and understanding authority and customer relationships. Indicate whether the youth received career preparation services during the reporting period that was paid for or provided by the State agency with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(24) *Employment programs or vocational training.* Employment programs and vocational training are designed to build a youth’s skills for a specific trade, vocation, or career through classes or on-site training. Employment programs include a youth’s participation in an apprenticeship, internship, or summer employment program and do not include summer or after-school jobs secured by the youth alone. Vocational training includes a youth’s participation in vocational or trade programs and the receipt of training in occupational classes for such skills as cosmetology, auto mechanics, building trades, nursing, computer science, and other current or emerging employment sectors. Indicate whether the youth attended an employment program or received vocational training during the reporting period that was paid for or provided by the State agency, with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(25) *Budget and financial management.* Budget and financial management assistance includes the following types of training and practice: Living within a budget; opening and using a checking and savings account; balancing a checkbook; developing consumer awareness and smart shopping skills; accessing information about credit, loans and taxes; and filling out tax forms. Indicate whether the

youth received budget and financial management assistance during the reporting period that was paid for or provided by the State agency with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(26) *Housing education and home management training.* Housing education includes assistance or training in locating and maintaining housing, including filling out a rental application and acquiring a lease, handling security deposits and utilities, understanding practices for keeping a healthy and safe home, understanding tenants rights and responsibilities, and handling landlord complaints. Home management includes instruction in food preparation, laundry, housekeeping, living cooperatively, meal planning, grocery shopping and basic maintenance and repairs. Indicate whether the youth received housing education or home management training during the reporting period that was paid for or provided by the State agency with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(27) *Health education and risk prevention.* Health education and risk prevention includes providing information about: Hygiene, nutrition, fitness and exercise, and first aid; medical and dental care benefits, health care resources and insurance, prenatal care and maintaining personal medical records; sex education, abstinence education, and HIV prevention, including education and information about sexual development and sexuality, pregnancy prevention and family planning, and sexually transmitted diseases and AIDS; substance abuse prevention and intervention, including education and information about the effects and consequences of substance use (alcohol, drugs, tobacco) and substance avoidance and intervention. Health education and risk prevention does not include the youth’s actual receipt of direct medical care or substance abuse treatment. Indicate whether the youth received these services during the reporting period that were paid for or provided by the State agency with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(28) *Family support and healthy marriage education.* Such services include education and information about safe and stable families, healthy marriages, spousal communication, parenting, responsible fatherhood, childcare skills, teen parenting, and

domestic and family violence prevention. Indicate whether the youth received these services that were paid for or provided by the State agency during the reporting period with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(29) *Mentoring*. Mentoring means that the youth has been matched with a screened and trained adult for a one-on-one relationship that involves the two meeting on a regular basis. Mentoring can be short-term, but it may also support the development of a long-term relationship. While youth often are connected to adult role models through school, work, or family, this service category only includes a mentor relationship that has been facilitated, paid for or provided by the State agency or its staff. Indicate whether the youth received mentoring services that were paid for or provided by the State agency during the reporting period with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(30) *Supervised independent living*. Supervised independent living means that the youth is living independently under a supervised arrangement that is paid for or provided by the State agency. A youth in supervised independent living is not supervised 24 hours a day by an adult and often is provided with increased responsibilities, such as paying bills, assuming leases, and working with a landlord, while under the supervision of an adult. Indicate whether the youth was living in a supervised independent living setting that was paid for or provided by the State agency during the reporting period with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(31) *Room and board financial assistance*. Room and board financial assistance is a payment that is paid for or provided by the State agency for room and board, including rent deposits, utilities, and other household start-up expenses. Indicate whether the youth received financial assistance for room and board that was paid for or provided by during the reporting period with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(32) *Education financial assistance*. Education financial assistance is a payment that is paid for or provided by the State agency for education or training, including allowances to purchase textbooks, uniforms, computers, and other educational supplies; tuition assistance;

scholarships; payment for educational preparation and support services (i.e., tutoring), and payment for GED and other educational tests. This financial assistance also includes vouchers for tuition or vocational education or tuition waiver programs paid for or provided by the State agency. Indicate whether the youth received education financial assistance during the reporting period that was paid for or provided by the State agency with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(33) *Other financial assistance*. Other financial assistance includes any other payments made or provided by the State agency to help the youth live independently. Indicate whether the youth received any other financial assistance that was paid for or provided by the State agency during the reporting period with a “yes” or “no” as appropriate. If the youth is not in the served population this element must be left blank.

(34) *Outcomes reporting status*. The outcomes reporting status represents the youth’s participation, or lack thereof, in the outcomes data collection. If the State agency collects and reports information on any of the data elements in paragraphs (g)(37) through (g)(58) of this section for a youth in the baseline or follow-up sample or population, indicate that the youth participated. If a youth is in the baseline or follow-up sample or population, but the State agency is unable to collect the information, indicate the reason and leave the data elements in paragraph (g)(37) through (g)(58) of this section blank. If a 19-year old youth in the follow-up population is not in the sample, indicate that the youth is not in the sample. If the youth is not in the baseline or follow-up population this element must be left blank.

(i) *Youth participated*. The youth participated in the outcome survey, either fully or partially.

(ii) *Youth declined*. The State agency located the youth successfully and invited the youth’s participation, but the youth declined to participate in the data collection.

(iii) *Parent declined*. The State agency invited the youth’s participation, but the youth’s parent/guardian declined to grant permission. This response may be used only when the youth has not reached the age of majority in the State and State law or policy requires a parent/guardian’s permission for the youth to participate in information collection activities.

(iv) *Incapacitated*. The youth has a permanent or temporary mental or

physical condition that prevents him or her from participating in the outcomes data collection.

(v) *Incarcerated*. The youth is unable to participate in the outcomes data collection because of his or her incarceration.

(vi) *Runaway/missing*. A youth in foster care is known to have run away or be missing from his or her foster care placement.

(vii) *Unable to locate/invite*. The State agency could not locate a youth who is not in foster care or otherwise invite such a youth’s participation.

(viii) *Death*. The youth died prior to his participation in the outcomes data collection.

(ix) *Not in sample*. The 19-year-old youth participated in the outcomes data collection as a part of the baseline population at age 17, but the youth is not in the State’s follow-up sample. This response option applies only when the outcomes data collection is required on the follow-up population of 19-year-old youth.

(35) *Date of outcome data collection*. The date of outcome data collection is the latest date that the agency collected data from a youth for the elements described in paragraphs (g)(38) through (g)(58) of this section. Indicate the month, day and year of the outcomes data collection. If the youth is not in the baseline or follow-up population this element must be left blank.

(36) *Foster care status—outcomes*. The youth is in foster care if the youth is under the placement and care responsibility of the State title IV–B/IV–E agency in accordance with the definition of foster care in 45 CFR 1355.20. Indicate whether the youth is in foster care on the date of outcomes data collection with a “yes” or “no” as appropriate. If the youth is not in the baseline or follow-up population this element must be left blank.

(37) *Current full-time employment*. A youth is employed full-time if employed at least 35 hours per week, in one or multiple jobs, as of the date of the outcome data collection. Indicate whether the youth is employed full-time, with a “yes” or “no” as appropriate. If the youth does not answer this question indicate “declined.” If the youth is not in the baseline or follow-up population this element must be left blank.

(38) *Current part-time employment*. A youth is employed part-time if employed between one and 34 hours per week, in one or multiple jobs, as of the date of the outcome data collection. Indicate whether the youth is employed part-time, with a “yes” or “no.” If the youth does not answer this question,

indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(39) *Employment-related skills.* A youth has obtained employment-related skills if the youth completed an apprenticeship, internship, or other on-the-job training, either paid or unpaid, in the past year. The experience must help the youth acquire employment-related skills, such as specific trade skills such as carpentry or auto mechanics, or office skills such as word processing or use of office equipment. Indicate whether the youth has obtained employment-related skills, with a "yes" or "no" as appropriate. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(40) *Social Security.* A youth is receiving some form of Social Security if receiving Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI), either directly or as a dependent beneficiary as of the date of the outcome data collection. SSI payments are made to eligible low-income persons with disabilities. SSDI payments are made to persons with a certain amount of work history who become disabled. A youth may receive SSDI payments through a parent. Indicate whether the youth is receiving a form of Social Security payments, with a "yes" or "no" as appropriate. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(41) *Educational aid.* A youth is receiving educational aid if using a scholarship, voucher (including education or training vouchers pursuant to section 477(h)(2) of the Social Security Act), grant, stipend, student loan, or other type of educational financial aid to cover educational expenses as of the date of the outcome data collection. Scholarships, grants, and stipends are funds awarded for spending on expenses related to gaining an education. "Student loan" means a government-guaranteed, low-interest loan for students in post-secondary education. Indicate whether the youth is receiving educational aid with a "yes" or "no" as appropriate. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(42) *Public financial assistance.* A youth is receiving public financial assistance if receiving ongoing cash welfare payments from the government to cover some of his or her basic needs,

as of the date of the outcome data collection. Public financial assistance does not include government payments or subsidies for specific purposes, such as unemployment insurance, child care subsidies, education assistance, food stamps or housing assistance. Indicate whether the youth is receiving public financial assistance, with "yes" or "no" as appropriate, and "not applicable" for a youth still in foster care. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(43) *Public food assistance.* A youth is receiving public food assistance if receiving food stamps in any form (i.e., government-sponsored checks, coupons or debit cards) to buy eligible food at authorized stores as of the date of the outcome data collection. This definition includes receiving public food assistance through the Women, Infants, and Children (WIC) program. Indicate whether the youth is receiving some form of public food assistance with "yes" or "no," and "not applicable" for a youth still in foster care. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(44) *Public housing assistance.* A youth is receiving public housing assistance if the youth is living in government-funded public housing, or receiving a government-funded housing voucher to pay for part of his/her housing costs as of the date of the outcome data collection. CFCIP room and board payments are not included in this definition. Indicate whether the youth is receiving housing assistance with "yes" or "no" and "not applicable" for a youth still in foster care. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(45) *Other financial support.* A youth has other financial support if receiving any other periodic and/or significant financial resources or support from another source not listed in the elements described in paragraphs (g)(41) through (g)(44) of this section as of the date of outcome data collection. Such support can include payments from a spouse or family member (biological, foster or adoptive), child support that the youth receives for him or herself, or funds from a legal settlement. This definition does not include occasional gifts, such as birthday or graduation checks or small donations of food or personal incidentals, child care subsidies, child support for a youth's

child, or other financial support which does not benefit the youth directly in supporting himself or herself. Indicate whether the youth is receiving any other financial support with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(46) *Highest educational certification received.* A youth has received an education certificate if the youth has a high school diploma or general equivalency degree (GED), vocational certificate, vocational license, associate's degree (e.g., A.A.), bachelor's degree (e.g., B.A. or B.S.), or a higher degree as of the date of the outcome data collection. Indicate the highest degree that the youth has received. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(i) A vocational certificate is a document stating that a person has received education or training that qualifies him or her for a particular job, e.g., auto mechanics or cosmetology.

(ii) A vocational license is a document that indicates that the State or local government recognizes an individual as a qualified professional in a particular trade or business.

(iii) An associate's degree is generally a two-year degree from a community college.

(iv) A bachelor's degree is a four-year degree from a college or university.

(v) A higher degree indicates a graduate degree, such as a Master's Degree or a Juris Doctor (J.D.).

(vi) None of the above means that the youth has not received any of the above educational certifications.

(47) *Current enrollment and attendance.* Indicate whether the youth is enrolled in and attending high school, GED classes, or postsecondary vocational training or college, as of the date of the outcome data collection. A youth is still considered enrolled in and attending school if the youth would otherwise be enrolled in and attending a school that is currently out of session. Indicate whether the youth is currently enrolled and attending school with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(48) *Connection to adult.* A youth has a connection to an adult if, as of the date of the outcome data collection, the youth knows an adult who he or she can go to for advice or guidance when there is a decision to make or a problem to

solve, or for companionship when celebrating personal achievements. The adult must be easily accessible to the youth, either by telephone or in person. This can include, but is not limited to adult relatives, parents or foster parents. The definition excludes spouses, partners, boyfriends or girlfriends and current caseworkers. Indicate whether the youth has such a connection with an adult with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(49) *Homelessness.* A youth is considered to have experienced homelessness if the youth had no regular or adequate place to live. This definition includes situations where the youth is living in a car or on the street, or staying in a homeless or other temporary shelter. For a 17-year-old youth in the baseline population, the data element relates to a youth's lifetime experiences. For a 19- or 21-year-old youth in the follow-up population, the data element relates to the youth's experience in the past two years. Indicate if the youth has been homeless with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(50) *Substance abuse referral.* A youth has received a substance abuse referral if the youth was referred for an alcohol or drug abuse assessment or counseling. For a 17-year-old youth in the baseline population, the data element relates to a youth's lifetime experience. For a 19- or 21-year-old youth in the follow-up population, the data element relates to the youth's experience in the past two years. This definition includes either a self-referral or referral by a social worker, school staff, physician, mental health worker, foster parent, or other adult. Alcohol or drug abuse assessment is a process designed to determine if someone has a problem with alcohol or drug use. Indicate whether the youth had a substance abuse referral with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(51) *Incarceration.* A youth is considered to have been incarcerated if the youth was confined in a jail, prison, correctional facility, or juvenile or community detention facility in connection with allegedly committing a crime (misdemeanor or felony). For a 17-year-old youth in the baseline population, the data element relates to a youth's lifetime experience. For a 19-

or 21-year-old youth in the follow-up population, the data element relates to the youth's experience in the past two years. Indicate whether the youth was incarcerated with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(52) *Children.* A youth is considered to have a child if the youth has given birth herself, or the youth has fathered any children who were born. For a 17-year-old youth in the baseline population, the data element relates to a youth's lifetime experience. For a 19- or 21-year-old youth in the follow-up population, the data element refers to children born to the youth in the past two years only. This refers to biological parenthood. Indicate whether the youth had a child with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(53) *Marriage at child's birth.* A youth is married at the time of the child's birth if he or she was united in matrimony according to the laws of the State to the child's other parent. Indicate whether the youth was married to the child's other parent at the time of the birth of any child reported in the element described in paragraph (g)(52) of this section with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the answer to the element described in paragraph (g)(52) of this section is "no," indicate "not applicable." If the youth is not in the baseline or follow-up population this element must be left blank.

(54) *Medicaid.* A youth is receiving Medicaid if the youth is participating in a Medicaid-funded State program, which is a medical assistance program supported by the Federal and State government under title XIX of the Social Security Act as of the date of outcomes data collection. Indicate whether the youth receives Medicaid with "yes," "no," or "don't know" as appropriate. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(55) *Other health insurance coverage.* A youth has other health insurance if the youth has a third party pay (other than Medicaid) for all or part of the costs of medical care, mental health care, and/or prescription drugs, as of the date of the outcome data collection.

This definition includes group coverage offered by employers, schools or associations, an individual health plan, self-employed plans, or inclusion in a parent's insurance plan. This also could

include access to free health care through a college, Indian Health Service, or other source. Medical or drug discount cards or plans are not insurance. Indicate "yes", "no," or "don't know," as appropriate, or "not applicable" for youth participating solely in Medicaid. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(56) *Health insurance type: Medical.* If the youth has indicated that he or she has health insurance coverage in the element described in paragraph (g)(55) of this section, indicate whether the youth has insurance that pays for all or part of medical health care services. Indicate "yes", "no", or "don't know" as appropriate, or "not applicable" if the youth did not indicate any health insurance coverage. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(57) *Health insurance type: Mental health.* If the youth has indicated that he or she has medical health insurance coverage as described in paragraph (g)(56) of this section, indicate whether the youth has insurance that pays for all or part of the costs for mental health care services, such as counseling or therapy. Indicate "yes", "no", or "don't know" as appropriate, or "not applicable" if the youth did not indicate having medical health insurance coverage. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(58) *Health insurance type: Prescription drugs.* If the youth has indicated that he or she has medical health insurance coverage as described in paragraph (g)(56) of this section, indicate whether the youth has insurance coverage that pays for part or all of the costs of some prescription drugs. Indicate "yes", "no", or "don't know" as appropriate, or "not applicable" if the youth did not indicate having medical health insurance coverage. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(h) *Electronic reporting.* The State agency must report all data to ACF electronically according to ACF's specifications and Appendix A of this part.

§ 1356.84 Sampling.

(a) The State agency may collect and report the information required in section 1356.83(e) of this part on a sample of the baseline population consistent with the sampling requirements described in paragraphs (b) and (c) of this section.

(b) The State agency must select the follow-up sample using simple random sampling procedures based on random numbers generated by a computer program, unless ACF approves another sampling procedure. The sampling universe consists of youth in the baseline population consistent with 45 CFR 1356.81(b) who participated in the State agency's data collection at age 17.

(c) The sample size is based on the number of youth in the baseline population who participated in the State agency's data collection at age 17.

(1) If the number of youth in the baseline population who participated in the outcome data collection at age 17 is 5,000 or less, the State agency must calculate the sample size using the formula in Appendix C of this part, with the Finite Population Correction (FPC). The State agency must increase the resulting number by 30 percent to allow for attrition, but the sample size may not be larger than the number of youth who participated in data collection at age 17.

(2) If the number of youth in the baseline population who participated in the outcome data collection at age 17 is greater than 5,000, the State agency must calculate the sample size using the formula in Appendix C of this part, without the FPC. The State agency must increase the resulting number by 30 percent to allow for attrition, but the sample size must not be larger than the number of youth who participated in data collection at age 17.

§ 1356.85 Compliance.

(a) *File submission standards.* A State agency must submit a data file in accordance with the following file submission standards:

(1) *Timely data.* The data file must be received in accordance with the reporting period and timeline described in section 1356.83(a) of this part;

(2) *Format.* The data file must be in a format that meets ACF's specifications; and

(3) *Error-free information.* The file must contain data in the general and demographic elements described in section 1356.83(g)(1) through (g)(5), (g)(14), and (g)(36) of this part that is 100 percent error-free as defined in paragraph (c) of this section.

(b) *Data standards.* A State agency also must submit a file that meets the following data standards:

(1) *Error-free.* The data for the applicable demographic, service and outcomes elements defined in section 1356.83(g)(6) through (13), (g)(15) through (35) and (g)(37) through (58) of this part must be 90 percent error-free as described and assessed according to paragraph (c) of this section.

(2) *Outcomes universe.* In any Federal fiscal year for which the State agency is required to submit information on the follow-up population, the State agency must submit a youth record containing at least outcomes data for the outcomes status element described in section 1356.83(g)(34) of this part on each youth for whom the State agency reported outcome information as part of the baseline population. Alternatively, if the State agency has elected to conduct sampling in accordance with section 1356.84 of this part, the State agency must submit a record containing at least outcomes data for the outcomes status element described in section 1356.83(g)(34) of this part on each 19-year-old youth in the follow-up population, inclusive of those youth who are not in the sample, and each 21-year-old youth in the follow-up sample.

(3) *Outcomes participation rate.* The State agency must report outcome information on each youth in the follow-up population at the rates described in paragraphs (b)(3)(i) through (iii) of this section. A youth has participated in the outcomes data collection if the State agency collected and reported a valid response (i.e., a response option other than "declined" or "not applicable") to any of the outcomes-related elements described in section 1356.83(g)(37) through (g)(58) of this part. ACF will exclude from the calculation of the participation rate any youth in the follow-up population who is reported as deceased, incapacitated or incarcerated in section 1356.83(g)(34) at the time information on the follow-up population is required.

(i) *Foster care youth participation rate.* The State agency must report outcome information on at least 80 percent of youth in the follow-up population who are in foster care on the date of outcomes data collection as indicated in section 1356.83(g)(35) and (g)(36) of this part.

(ii) *Discharged youth participation rate.* The State agency must report outcome information on at least 60 percent of youth in the follow-up population who are not in foster care on the date of outcomes data collection as indicated in section 1356.83(g)(35) and (g)(36) of this part.

(iii) *Effect of sampling on participation rates.* For State agencies electing to sample in accordance with

section 1356.84 and Appendix C of this part, ACF will apply the outcome participation rates in paragraphs (b)(2)(i) and (ii) of this section to the required sample size for the State.

(c) *Errors.* ACF will assess each State agency's data file for the following types of errors: Missing data, out-of-range data, or internally inconsistent data. The amount of errors acceptable for each reporting period is described in paragraphs (a) and (b) of this section.

(1) *Missing data* is any element that has a blank response when a blank response is not a valid response option as described in section 1356.83(g) of this part.

(2) *Out-of-range data* is any element that contains a value that is outside the parameters of acceptable responses or exceeds, either positively or negatively, the acceptable range of response options as described in section 1356.83(g) of this part; and

(3) *Internally inconsistent data* is any element that fails an internal consistency check designed to evaluate the logical relationship between elements in each record. The evaluation will identify all elements involved in a particular check as in error.

(d) *Review for compliance.*

(1) ACF will determine whether a State agency's data file for each reporting period is in compliance with the file submission standards and data standards in paragraphs (a) and (b) of this section.

(i) For State agencies that achieve the file submission standards, ACF will determine whether the State agency's data file meets the data standards.

(ii) For State agencies that do not achieve the file submission standards or data standards, ACF will notify the State agency that they have an opportunity to submit a corrected data file by the end of the subsequent reporting period in accordance with paragraph (e) of this section.

(2) ACF may use monitoring tools or assessment procedures to determine whether the State agency is meeting all the requirements of section 1356.81 through 1356.85 of this part.

(e) *Submitting corrected data and noncompliance.* A State agency that does not submit a data file that meets the standards in section 1356.85 of this part will have an opportunity to submit a corrected data file in accordance with paragraphs (e)(1) and (e)(2) of this section.

(1) A State agency must submit a corrected data file no later than the end of the subsequent reporting period as defined in section 1356.83(a) of this part (i.e., by September 30 or March 31).

(2) If a State agency fails to submit a corrected data file that meets the compliance standards in section 1356.85 of this part and the deadline in paragraph (e)(1) of this section, ACF will make a final determination that the State is out of compliance, notify the State agency, and apply penalties as defined in section 1356.86 of this part.

§ 1356.86 Penalties for noncompliance.

(a) *Definition of Federal funds subject to a penalty.* The funds that are subject to a penalty are the CFCIP funds allocated or reallocated to the State agency under section 477(c)(1) of the Act for the Federal fiscal year that corresponds with the reporting period for which the State agency was required originally to submit data according to section 1356.83(a) of this part.

(b) *Assessed penalty amounts.* ACF will assess penalties in the following amounts, depending on the area of noncompliance:

(1) *Penalty for not meeting file submission standards.* ACF will assess a penalty in an amount equivalent to two and one half percent (2.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the file

submission standards defined in section 1356.85(a) of this part.

(2) *Penalty for not meeting certain data standards.* ACF will assess a penalty in an amount equivalent to:

(i) One and one quarter percent (1.25%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the data standard for error-free data as defined in section 1356.85(b)(1) of this part.

(ii) One and one quarter percent (1.25%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the outcome universe standard defined in section 1356.85(b)(2) of this part.

(iii) One half of one percent (0.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the participation rate for youth in foster care standard defined in section 1356.85(b)(3)(i) of this part.

(iv) One half of one percent (0.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State

agency's data file does not comply with the participation rate for discharged youth standard defined in section 1356.85(b)(3)(ii) of this part.

(c) *Calculation of the penalty amount.* ACF will add together any assessed penalty amounts described in paragraphs (b)(1) or (b)(2) of this section to determine the total calculated penalty result. If the total calculated penalty result is less than one percent of the funds subject to a penalty, the State agency will be penalized in the amount of one percent.

(d) *Notification of penalty amount.* ACF will advise the State agency in writing of a final determination of noncompliance and the amount of the total calculated penalty as determined in paragraph (c) of this section.

(e) *Interest.* The State agency will be liable for interest on the amount of funds penalized by the Department, in accordance with the provisions of 45 CFR 30.13.

(f) *Appeals.* The State agency may appeal, pursuant to 45 CFR part 16, ACF's final determination to the HHS Departmental Appeals Board.

■ 3. Add Appendices A, B, and C to part 1356 to read as follows:

APPENDIX A TO PART 1356—NYTD DATA ELEMENTS

Element #	Element name	Responses options	Applicable population
1	State	2 digit FIPS code.	All youth in served, baseline and follow-up populations.
2	Report date	CYYMM. CC= century year (i.e., 20). YY = decade year (00–99). MM = month (01–12).	
3	Record number	Encrypted, unique person identification number.	
4	Date of birth	CCYYMMDD. CC= century year (i.e., 20). YY = decade year (00–99). MM = month (01–12). DD= day (01–31).	
5	Sex	Male. Female.	
6	Race—American Indian or Alaska Native	Yes	
7	Race—Asian	No. Yes.	
8	Race—Black or African American	No. Yes.	
9	Race—Native Hawaiian or Other Pacific Islander	No. Yes.	
10	Race—White	No. Yes.	
11	Race—Unknown	No. Yes.	
12	Race—Declined	No. Yes.	
13	Hispanic or Latino Ethnicity	No. Yes. No. Unknown. Declined.	

APPENDIX A TO PART 1356—NYTD DATA ELEMENTS—Continued

Element #	Element name	Responses options	Applicable population
14	Foster care status—services	Yes No.	Served population only.
15	Local agency	FIPS code(s). Centralized unit.	
16	Federally-recognized tribe	Yes. No.	
17	Adjudicated delinquent	Yes. No.	
18	Education level	Less than 6th grade 6th grade. 7th grade. 8th grade. 9th grade. 10th grade. 11th grade. 12th grade. Postsecondary education or training College, at least one semester.	Served population only.
19	Special education	Yes. No.	
20	Independent living needs assessment	Yes. No.	
21	Academic support	Yes. No.	
22	Post-secondary educational support	Yes. No.	
23	Career preparation	Yes. No.	
24	Employment programs or vocational training	Yes. No.	
25	Budget and financial management	Yes. No.	
26	Housing education and home management training.	Yes. No.	
27	Health education and risk prevention	Yes. No.	
28	Family Support/Healthy Marriage Education	Yes. No.	
29	Mentoring	Yes. No.	
30	Supervised independent living	Yes. No.	
31	Room and board financial assistance	Yes. No.	
32	Education financial assistance	Yes. No.	
33	Other financial assistance	Yes. No.	
34	Outcomes reporting status	Youth Participated Youth Declined Parent Declined Youth Incapacitated Incarcerated. Runaway/Missing. Unable to locate/invite. Death. Not in sample.	Baseline and follow-up populations (with the exception of the response option “not in sample” which is applicable to 19-year olds in the follow-up only).
35	Date of outcome data collection	CCYYMMDD CC= century year (i.e., 20). YY = decade year (00–99). MM = month (01–12). DD= day (01–31).	Baseline and follow-up populations.
36	Foster care status-outcomes	Yes. No.	
37	Current full-time employment	Yes. No. Declined.	

APPENDIX A TO PART 1356—NYTD DATA ELEMENTS—Continued

Element #	Element name	Responses options	Applicable population	
38	Current part-time employment	Yes. No. Declined.		
39	Employment-related skills	Yes. No. Declined.		
40	Social Security	Yes. No. Declined.		
41	Educational aid	Yes. No. Declined.		
42	Public financial assistance	Yes	Follow-up population <i>not</i> in foster care.	
43	Public food assistance	No. Not applicable. Declined.		
44	Public housing assistance	Yes. No. Not applicable. Declined.		
45	Other financial support	Yes	Baseline and follow-up population.	
46	Highest educational certification received	No. Declined. High school diploma/GED. Vocational certificate. Vocational license. Associate's degree. Bachelor's degree. Higher degree. None of the above. Declined.		
47	Current enrollment and attendance	Yes. No. Declined.		
48	Connection to adult	Yes. No. Declined.		
49	Homelessness	Yes. No. Declined.		
50	Substance abuse referral	Yes. No. Declined.		
51	Incarceration	Yes. No. Declined.		
52	Children	Yes. No. Declined.		
53	Marriage at child's birth	Yes. No. Not applicable. Declined.		
54	Medicaid	Yes. No. Don't know. Declined.		
55	Other health insurance coverage	Yes		Baseline and follow-up population.
56	Health insurance type—medical	No. Don't know. Not applicable. Declined. Yes. Don't know. Not applicable.		

APPENDIX A TO PART 1356—NYTD DATA ELEMENTS—Continued

Element #	Element name	Responses options	Applicable population
57	Health insurance type—mental health	Declined. Yes. No. Don't know. Not applicable.	
58	Health insurance type—prescription drugs	Declined. Yes. No. Don't know. Not applicable. Declined.	

APPENDIX B TO PART 1356—NYTD YOUTH OUTCOME SURVEY

Topic/element #	Question to youth and response options	Definition
INFORMATION TO COLLECT FROM ALL YOUTH SURVEYED FOR OUTCOMES, WHETHER IN FOSTER CARE OR NOT		
Current full-time employment (37)	Currently are you employed full-time? Yes No Declined	“Full-time” means working at least 35 hours per week at one or multiple jobs.
Current part-time employment (38)	Currently are you employed part-time? Yes No Declined	“Part-time” means working at least 1–34 hours per week at one or multiple jobs.
Employment-related skills (39)	In the past year, did you complete an apprenticeship, internship, or other on-the-job training, either paid or unpaid? Yes No Declined	This means apprenticeships, internships, or other on-the-job trainings, either paid or unpaid, that helped the youth acquire employment-related skills (which can include specific trade skills such as carpentry or auto mechanics, or office skills such as word processing or use of office equipment).
Social Security (40)	Currently are you receiving social security payments (Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), or dependents' payments)? Yes No Declined	These are payments from the government to meet basic needs for food, clothing, and shelter of a person with a disability. A youth may be receiving these payments because of a parent or guardian's disability, rather than his/her own.
Educational Aid (41)	Currently are you using a scholarship, grant, stipend, student loan, voucher, or other type of educational financial aid to cover any educational expenses? Yes No Declined	Scholarships, grants, and stipends are funds awarded for spending on expenses related to gaining an education. “Student loan” means a government-guaranteed, low-interest loan for students in post-secondary education.
Other financial support (45)	Currently are you receiving any periodic and/or significant financial resources or support from another source not previously indicated and excluding paid employment? Yes No Declined	This means periodic and/or significant financial support from a spouse or family member (biological, foster or adoptive), child support that the youth receives or funds from a legal settlement. This does not include occasional gifts, such as birthday or graduation checks or small donations of food or personal incidentals, child care subsidies, child support for a youth's child or other financial help that does not benefit the youth directly in supporting himself or herself.

APPENDIX B TO PART 1356—NYTD YOUTH OUTCOME SURVEY—Continued

Topic/element #	Question to youth and response options	Definition
Highest educational certification received (46) ..	What is the highest educational degree or certification that you have received? <input type="checkbox"/> High school diploma/GED <input type="checkbox"/> Vocational certificate <input type="checkbox"/> Vocational license <input type="checkbox"/> Associate's degree (e.g., A.A.) <input type="checkbox"/> Bachelor's degree (e.g., B.A. or B.S.) <input type="checkbox"/> Higher degree <input type="checkbox"/> None of the above <input type="checkbox"/> Declined	"Vocational certificate" means a document stating that a person has received education or training that qualifies him or her for a particular job, e.g., auto mechanics or cosmetology. "Vocational license" means a document that indicates that the State or local government recognizes an individual as a qualified professional in a particular trade or business. An Associate's degree is generally a two-year degree from a community college, and a Bachelor's degree is a four-year degree from a college or university. "Higher degree" indicates a graduate degree, such as a Masters or Doctorate degree. "None of the above" means that the youth has not received any of the above educational certifications.
Current enrollment and attendance (47)	Currently are you enrolled in and attending high school, GED classes, post-high school vocational training, or college? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Declined	This means both enrolled in <i>and attending</i> high school, GED classes, or postsecondary vocational training or college. A youth is still considered enrolled in and attending school if the youth would otherwise be enrolled in and attending a school that is currently out of session (e.g., Spring break, summer vacation, etc.).
Connection to adult (48)	Currently is there at least one adult in your life, other than your caseworker, to whom you can go for advice or emotional support? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Declined	This refers to an adult who the youth can go to for advice or guidance when there is a decision to make or a problem to solve, or for companionship to share personal achievements. This can include, but is not limited to, adult relatives, parents or foster parents. The definition excludes spouses, partners, boyfriends or girlfriends and current caseworkers. The adult must be easily accessible to the youth, either by telephone or in person.
Homelessness (49)	Have you ever been homeless? OR In the past two years, were you homeless at any time? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Declined.	"Homeless" means that the youth had no regular or adequate place to live. This includes living in a car, or on the street, or staying in a homeless or other temporary shelter.
Substance abuse referral (50)	Have you ever referred yourself or has someone else referred you for an alcohol or drug abuse assessment or counseling? OR In the past two years, did you refer yourself, or had someone else referred you for an alcohol or drug abuse assessment or counseling? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Declined.	This includes either self-referring or being referred by a social worker, school staff, physician, mental health worker, foster parent, or other adult for an alcohol or drug abuse assessment or counseling. Alcohol or drug abuse assessment is a process designed to determine if someone has a problem with alcohol or drug use.
Incarceration (51)	Have you ever been confined in a jail, prison, correctional facility, or juvenile or community detention facility, in connection with allegedly committing a crime? OR	This means that the youth was confined in a jail, prison, correctional facility, or juvenile or community detention facility in connection with a crime (misdemeanor or felony) allegedly committed by the youth.

APPENDIX B TO PART 1356—NYTD YOUTH OUTCOME SURVEY—Continued

Topic/element #	Question to youth and response options	Definition
Children (52)	In the past two years, were you confined in a jail, prison, correctional facility, or juvenile or community detention facility, in connection with allegedly committing a crime? Yes No Declined.	
Marriage at Child's Birth (53)	Have you ever given birth or fathered any children that were born? OR In the past two years, did you give birth to or father any children that were born? Yes No Declined.	This means giving birth to or fathering at least one child that was born. If males do not know, answer "No." This means that when every child was born the youth was married to the other parent of the child.
Medicaid (54)	If you responded yes to the previous question, were you married to the child's other parent at the time each child was born? Yes No Declined	This means that when every child was born the youth was married to the other parent of the child.
Other Health insurance Coverage (55)	Currently are you on Medicaid [or use the name of the State's medical assistance program under title XIX]? Yes No Don't know Declined	Medicaid (or the State medical assistance program) is a health insurance program funded by the government.
Health insurance type—medical (56)	Currently do you have health insurance, other than Medicaid? Yes No Don't know Declined	"Health insurance" means having a third party pay for all or part of health care. Youth might have health insurance such as group coverage offered by employers or schools, or individual policies that cover medical and/or mental health care and/or prescription drugs, or youth might be covered under parents' insurance. This also could include access to free health care through a college, Indian Tribe, or other source.
Health insurance type—mental health (57)	Does your health insurance include coverage for medical services? Yes Don't know Declined	This means that the youth's health insurance covers at least some medical services or procedures. This question is for only those youth who responded "yes" to having health insurance.
Health insurance type—prescription drugs (58)	Does your health insurance include coverage for mental health services? Yes No Don't know Declined	This means that the youth's health insurance covers at least some mental health services. This question is for only those youth who responded "yes" to having health insurance with medical coverage.
Health insurance type—prescription drugs (58)	Does your health insurance include coverage for prescription drugs? Yes No Don't know Declined	This means that the youth's health insurance covers at least some prescription drugs. This question is for only those youth who responded "yes" to having health insurance with medical coverage.

ADDITIONAL OUTCOMES INFORMATION TO COLLECT FROM YOUTH OUT OF FOSTER CARE

Public financial assistance (42)	Currently are you receiving ongoing welfare payments from the government to support your basic needs? [The State may add and/or substitute the name(s) of the State's welfare program]. Yes No Declined	This refers to ongoing welfare payments from the government to support your basic needs. Do not consider payments or subsidies for specific purposes, such as unemployment insurance, child care subsidies, education assistance, food stamps or housing assistance in this category.
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APPENDIX B TO PART 1356—NYTD YOUTH OUTCOME SURVEY—Continued

Topic/element #	Question to youth and response options	Definition
Public food assistance (43)	Currently are you receiving public food assistance? <input type="checkbox"/> Yes	Public food assistance includes food stamps, which are government-issued coupons or debit cards that recipients can use to buy eligible food at authorized stores. Public food assistance also includes assistance from the Women, Infants and Children (WIC) program.
	<input type="checkbox"/> No <input type="checkbox"/> Declined	
Public housing assistance (44)	Currently are you receiving any sort of housing assistance from the government, such as living in public housing or receiving a housing voucher? <input type="checkbox"/> Yes	Public housing is rental housing provided by the government to keep rents affordable for eligible individuals and families, and a housing voucher allows participants to choose their own housing while the government pays part of the housing costs. This does not include payments from the child welfare agency for room and board payments.
	<input type="checkbox"/> No <input type="checkbox"/> Declined	

Appendix C to Part 1356—Calculating Sample Size for NYTD Follow-Up Populations

population of one to 5,000 youth, because the sample is more than five percent of the population.

1. Using Finite Population Correction

The Finite Population Correction (FPC) is applied when the sample is drawn from a

$$\bullet \text{ Sample size with FPC} = \frac{(\text{Py})(\text{Pn}) + \text{Std. error}^2}{\text{Std. error}^2 + \frac{(\text{Py})(\text{Pn})}{N}}$$

• (Py)(Pn), an estimate of the percent of responses to a dichotomous variable, is (.50)(.50) for the most conservative estimate.

$$\bullet \text{ Standard error} = \frac{\text{Acceptable level of error}}{Z \text{ coefficient}}$$

• Acceptable level of error = .05 (results are plus or minus five percentage points from the actual score)

• Z = 1.645 (90 percent confidence interval)

$$\bullet \text{ Standard error, 90 percent confidence interval} = \frac{.05}{1.645} = .0303951$$

• N = number of youth from whom the sample is being drawn

2. Not Using Finite Population Correction

The FPC is not applied when the sample is drawn from a population of over 5,000 youth.

$$\bullet \text{ Sample size without FPC, 90 percent confidence interval} = \frac{(\text{Py})(\text{Pn})}{\text{Std. Error}^2} = \frac{(.50)(.50)}{(.0303951)^2} = 271$$

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Federal Register

Vol. 73, No. 38

Tuesday, February 26, 2008

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FEDERAL REGISTER PAGES AND DATE, FEBRUARY

6007-6418.....	1
6419-6570.....	4
6571-6832.....	5
6833-7186.....	6
7187-7460.....	7
7461-7656.....	8
7657-8002.....	11
8003-8184.....	12
8185-8586.....	13
8587-8786.....	14
8787-8994.....	15
8995-9170.....	19
9171-9438.....	20
9439-9654.....	21
9655-9934.....	22
9935-10122.....	25
10123-10378.....	26

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR	319.....	7189
	457.....	7190
Proclamations:	915.....	6834
6867 (See Notice of February 6, 2008)	932.....	7199
7757 (See Notice of February 6, 2008)	982.....	9000
8220.....	989.....	9005
	1951.....	8007
Executive Orders:	Proposed Rules:	
13250 (Revoked by 13461)	51.....	10185
	301.....	7679
13338 (Amended by 13460)	930.....	9965
13396 (See Notice of February 5, 2008)	985.....	8825
13399 (See 13460).....	1260.....	7226
13457.....	8 CFR	
13458.....	270.....	10130
13459.....	274.....	9010
13460.....	274a.....	10130
13461.....	280.....	10130
	1274a.....	10130
Administrative Orders:	Proposed Rules:	
Memorandums:	214.....	8230
Memorandum of February 14, 2008	215.....	8230
Memorandum of March 19, 2002 (Revoked by EO 13461)	274a.....	8230
Notices:	9 CFR	
Notice of February 6, 2008	78.....	6007, 10137
Presidential Determinations:	94.....	9174
No. 2008-8 of January 22, 2008	Proposed Rules:	
No. 2008-9 of January 28, 2008	201.....	7482, 7686
No. 2008-10 of January 29, 2008	10 CFR	
No. 2008-11 of February 11, 2008	19.....	8588
No. 2008-12 of February 13, 2008	20.....	8588
	50.....	8588
5 CFR	Proposed Rules:	
315.....	35.....	8830
550.....	50.....	7690
532.....	60.....	10187
752.....	63.....	10187
892.....	73.....	10187
950.....	74.....	10187
1201.....	170.....	8508
1203.....	171.....	8508
1207.....	12 CFR	
1208.....	8.....	9012, 9625
1209.....	201.....	7202
2423.....	229.....	8787
Proposed Rules:	620.....	8008
300.....	630.....	7461
	Proposed Rules:	
7 CFR	204.....	8009
246.....	209.....	8009
301.....	14 CFR	
	25.....	7203, 8788, 8791, 9014, 9176
	39.....	6008, 6419, 6578, 6582, 6584, 6586, 6590, 6592, 6594, 6596, 6598, 6601, 6838, 7657, 7659, 7661,

7663, 7666, 8185, 8187,
8589, 8591, 9178, 9181,
9655, 9659, 9661, 9663,
9666, 9668, 9670, 10139
617034
716424, 6425, 7667, 7668,
8593, 8594, 8595, 8596,
8794, 8795, 9183, 9185,
9186, 9439, 9440, 9442,
9443, 9445, 9447, 9448,
9450, 9451, 9452, 9454
738598
917034, 10140
976841, 7461, 9935, 9937
1357034, 8796
126610143
Proposed Rules:
339494
396618, 6620, 6622, 6627,
6629, 6631, 6634, 6636,
6638, 6640, 7484, 7486,
7488, 7489, 7492, 7494,
7690, 8247, 8248, 8831,
8833, 9053, 9055, 9235,
9239, 9497, 9500, 9502,
9965, 9968, 9970, 10188
716056, 6057, 6058, 6060,
7228, 8628, 9059, 9060,
9062, 9063, 9504
739241
15 CFR
7426603
7446603
7486603
7746603
Proposed Rules:
20048629
16 CFR
16336842
Proposed Rules:
2310190
17 CFR
368599
408599
2007205
2026011
2306011
2406011
2606011
2706011
Proposed Rules:
2107450, 8936
2287450
2297450, 8936
2318936
23910102
24010102
2418936
2497450, 8976, 10102
2748976
18 CFR
407368
1578190
19 CFR
Proposed Rules:
46061
126061
186061
1016061
1036061

1136061
1226061
1236061
1416061
1436061
1496061
1629010
1926061
2018836
2108836
20 CFR
Proposed Rules:
6558538
21 CFR
1019938
1848606
3476014
5108191
5206607, 8192, 9455
5226017, 8191
5586018
6067463
6077463
6107463
6407463
13126843
Proposed Rules:
1337692
8807498
22 CFR
427670
Proposed Rules:
3099709
24 CFR
Proposed Rules:
57170
25 CFR
5026019
5226019
5596019
5736019
26 CFR
17464, 8798
3018193, 9188, 9672
7028608
Proposed Rules:
17503, 9971, 9972
7028632
28 CFR
08815
169947
6810130
Proposed Rules:
586062, 6447
29 CFR
40228816
40448816
Proposed Rules:
297693
10110199
10210199
5018538
7808538
7888538
8257876
16159065
40109243

30 CFR
497636
757636
1007206
Proposed Rules:
2509506
2539506
2549506
2566073, 9506
32 CFR
2409949
9039456
33 CFR
1106607
1178193, 8817, 9190
1656610
4019950
Proposed Rules:
1006859
1108633, 8635
1386642, 8250
1656861, 7229, 7231
36 CFR
12536030
Proposed Rules:
11906080
11916080
37 CFR
Proposed Rules:
19254
38 CFR
366294
Proposed Rules:
179068
39 CFR
206031, 9191
1116032, 6033, 9197, 9199
30206426
Proposed Rules:
30016081
40 CFR
526034, 6427, 7465, 7468,
8194, 8197, 8200, 8818,
9201, 9203, 9206, 9459,
10150
637210, 8408
707468
758408
808202
818209
976034, 8408
1806851, 7472, 8212, 9211,
9214, 9217, 9222, 9226
2718610
2728610
3006613
Proposed Rules:
526451, 6657, 7234, 7504,
8018, 8026, 8250, 8251,
8637, 8837, 9259, 9260,
9506, 10201, 10203
707504
808251
816863
1806867
26010204
26110204
26210204

26310204
26410204
26510204
2718640
2728640
3006659
41 CFR
102-427475
102-1189232
42 CFR
4109672, 9860
4119679, 9860
4129860
4139860
4149860
4169860
4199860
4339685
4829860
4859860
4899679
Proposed Rules:
38112
4006451
4056451
4106451
4126451
4136451
4146451
4409714
4479727
4579727
4886451
4946451
43 CFR
31306430
44 CFR
6410155
657476
679699
Proposed Rules:
679740, 9750, 9754
45 CFR
2616772
2626772
2636772
2656772
135610338
16118218
Proposed Rules:
40410210
46 CFR
Proposed Rules:
4016085
47 CFR
08617, 9017, 9462
19017
29017
529463
619017
646041, 6444, 9031
737671, 9481, 9492, 9954
766043
809017
Proposed Rules:
16879, 6888, 8028
529507
737694, 8255, 9515

74.....8255	49 CFR	612.....9075	8229, 8821, 8822, 9034, 9035, 9493, 9707, 10159, 10160
76.....6099, 8029	217.....8442	50 CFR	
48 CFR	218.....8442	17 .....8412, 8748, 9408	Proposed Rules:
Proposed Rules:	223.....6370	223.....7616	14.....9972
9901.....8259	238.....6370	226.....7616	17 .....6660, 6684, 7236, 7237, 9078, 9755, 10218
9903.....8259	367.....10157	229.....7674, 8625	223.....6895
904.....8260, 9071	385.....9233	622 .....7223, 7676, 8219, 10158	226.....6895
952.....9071	395.....9233	635.....7479	665.....6101
970.....9071	563.....8408	648.....9957	680.....8838
	578.....9955	660.....9960	
	Proposed Rules:	679 .....6055, 7224, 7480, 8228,	
	375.....9266		

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT FEBRUARY 26, 2008**COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration**

Fisheries of the Exclusive Economic Zone Off Alaska: Bering Sea and Aleutian Islands; Final 2008 and 2009 Harvest Specifications for Groundfish; published 2-26-08

**HEALTH AND HUMAN SERVICES DEPARTMENT
Centers for Medicare & Medicaid Services**

Medicaid: School administration expenditures and transportation for school-age children; elimination of reimbursement; published 12-28-07

**TRANSPORTATION DEPARTMENT
Federal Aviation Administration**

Airworthiness Directives: Bombardier Model CL 600 2B19 (Regional Jet Series 100 & 440) Airplanes; published 1-22-08
Eclipse Aviation Corporation Model EA500 Airplanes; published 1-22-08
Fokker Model F.27 Mark 050 Airplanes; published 2-11-08
GARMIN International GSM 85 Servo Gearbox Units; published 1-22-08
McDonnell Douglas Model 717 200 Airplanes; published 1-22-08

**TRANSPORTATION DEPARTMENT
Federal Motor Carrier Safety Administration**

Fees for Unified Carrier Registration Plan and Agreement; Correction; published 2-26-08

COMMENTS DUE NEXT WEEK**AGRICULTURE DEPARTMENT**

Animal and Plant Health Inspection Service
Animal Welfare:

Climatic and Environmental Conditions for Transportation of Warmblooded Animals Other Than Marine Mammals; comments due by 3-3-08; published 1-3-08 [FR E7-25530]

ENERGY DEPARTMENT**Energy Efficiency and Renewable Energy Office**

Energy Efficiency Program for Consumer Products: Public Meeting and Availability of the Framework Document for Fluorescent Lamp Ballasts; comments due by 3-7-08; published 1-22-08 [FR E8-00938]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control; new motor vehicles and engines: Compression-ignition marine engines at or above 30 liters per cylinder; emissions control; comments due by 3-6-08; published 12-7-07 [FR E7-23556]

Approval and Promulgation of Air Quality Implementation Plans:

Control of Volatile Organic Compound Emissions From Kraft Foods Global, Inc.; Richmond Bakery, Henrico County, VA; comments due by 3-3-08; published 1-31-08 [FR E8-01777]

Approval and Promulgation of Implementation Plans:

Kentucky; Tennessee Valley Authority Paradise Facility State Implementation Plan Revision; comments due by 3-6-08; published 2-5-08 [FR E8-02089]

Approval and Promulgation of State Implementation Plans:

Ohio: Proposed Approval of Revised Oxides of Nitrogen (NOx), Phase II, and Revised NOx Trading Rule; comments due by 3-5-08; published 2-4-08 [FR E8-01799]

Environmental Statements; Notice of Intent:

Coastal Nonpoint Pollution Control Programs; States and Territories—Florida and South Carolina; Open for comments until further notice; published 2-11-08 [FR 08-00596]

National Oil and Hazardous Substance Pollution Contingency Plan; National

Priorities List; comments due by 3-6-08; published 2-5-08 [FR E8-01963]

Ohio; Revised Oxides of Nitrogen (NOx) Regulation, Phase II, and Revised NOx Trading Rule; comments due by 3-5-08; published 2-4-08 [FR E8-01797]

Pesticide Programs:

Trifloxystrobin; Pesticide Tolerance; comments due by 3-3-08; published 1-2-08 [FR E7-25396]

State Hazardous Waste Management Program Revisions:

Massachusetts; comments due by 3-3-08; published 1-31-08 [FR E8-01316]

FEDERAL COMMUNICATIONS COMMISSION

Amendment of the Commissions Rules and Policies Governing Pole Attachments:

Implementation of Section 224 of the Act; comments due by 3-7-08; published 2-6-08 [FR E8-02177]

Carriage of Digital Television Broadcast Signals; comments due by 3-3-08; published 2-1-08 [FR E8-01914]

Petition to Establish Procedural Requirements to Govern Proceedings:

Forbearance Under Section 10 of Communications Act of 1934, as Amended; comments due by 3-7-08; published 2-6-08 [FR E8-02180]

FEDERAL DEPOSIT INSURANCE CORPORATION

Minority and Women Outreach Program Contracting; comments due by 3-3-08; published 1-3-08 [FR E7-25028]

**HEALTH AND HUMAN SERVICES DEPARTMENT
Centers for Medicare & Medicaid Services**

Medicare Program:

Option for Prescription Drug Plans to Lower Their Premiums for Low-Income Subsidy Beneficiaries; Correction; comments due by 3-3-08; published 1-29-08 [FR C8-00015]

Option for Prescription Drug Plans To Lower Their Premiums for Low-Income Subsidy Beneficiaries; comments due by 3-3-08; published 1-8-08 [FR 08-00015]

HOMELAND SECURITY DEPARTMENT**U.S. Customs and Border Protection**

Importer Security Filing and Additional Carrier Requirements; comments due by 3-3-08; published 1-2-08 [FR E7-25306]

Importer Security Filing and Additional Carrier Requirements; Correction; comments due by 3-3-08; published 1-8-08 [FR E8-00050]

HOMELAND SECURITY DEPARTMENT**Coast Guard**

2008 Rates for Pilotage on the Great Lakes; comments due by 3-3-08; published 2-1-08 [FR 08-00474]

Safety Zone:

Colorado River, Parker, AZ; comments due by 3-3-08; published 2-7-08 [FR E8-02212]

Safety zone:

Oceanside Harbor, CA; comments due by 3-3-08; published 2-6-08 [FR E8-02167]

HOMELAND SECURITY DEPARTMENT**Federal Emergency Management Agency**

Flood elevation determinations: Nebraska; comments due by 3-5-08; published 12-6-07 [FR E7-23701]

Flood elevation determinations: Various States; comments due by 3-5-08; published 12-6-07 [FR E7-23696]

Flood elevation determinations: Various States; comments due by 3-5-08; published 12-6-07 [FR E7-23702]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT**Federal Housing Enterprise Oversight Office**

Risk-based capital:

Loss severity amendments; comments due by 3-4-08; published 12-5-07 [FR 07-05101]

**INTERIOR DEPARTMENT
Fish and Wildlife Service**

Endangered and Threatened Wildlife and Plants:

Designation of Critical Habitat for the Sierra Nevada Bighorn Sheep (*Ovis canadensis californiana*) and Proposed Taxonomic Revision; comments due by 3-6-08; published 2-5-08 [FR E8-01805]

INTERIOR DEPARTMENT

National Environmental Policy Act; Implementation; comments due by 3-3-08; published 1-2-08 [FR E7-25484]

JUSTICE DEPARTMENT**Drug Enforcement Administration**

Controlled Substances

Schedules:

Indiplon; Schedule IV

Placement; comments due by 3-3-08; published 1-31-08 [FR E8-01692]

SECURITIES AND**EXCHANGE COMMISSION**

Self-Regulatory Organizations:

The NASDAQ Stock Market LLC; comments due by 3-4-08; published 2-12-08 [FR E8-02567]

TRANSPORTATION**DEPARTMENT****Federal Aviation****Administration**

Air traffic operating and flight rules, etc.:

Automatic dependent

surveillance-broadcast out performance requirements to support air traffic control service; comments due by 3-3-08; published 12-21-07 [FR E7-24713]

Aircraft:

Automatic dependent

surveillance-broadcast; out performance requirements to support air traffic control service; comments due by 3-3-08; published 11-19-07 [FR E7-22544]

Airworthiness Directives:

McDonnell Douglas Model 717 200 Airplanes, et al.; comments due by 3-3-08; published 1-18-08 [FR E8-00857]

Alpha Aviation Design Ltd. (Type Certificate No. A48EU previously held by APEX Aircraft and AVIONS PIERRE ROBIN) Model R2160 Airplanes; comments due by 3-6-08; published 2-5-08 [FR E8-02047]

ATR Model ATR42-500 Airplanes; comments due

by 3-6-08; published 2-5-08 [FR E8-02004]

Airworthiness directives:

Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200C, 747-200F, 747-300, 747-400, 747-400D, 747-400F, 747SR, and 747SP Series Airplanes; comments due by 3-7-08; published 1-7-08 [FR E7-25614]

Airworthiness Directives:

Dassault Model Falcon 2000 Airplanes; comments due by 3-6-08; published 2-5-08 [FR E8-01984]

Dassault Model Mystere Falcon 50 Airplanes; comments due by 3-6-08; published 2-5-08 [FR E8-01985]

Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB 120, 120ER, 120FC, 120QC, and 120RT Airplanes; comments due by 3-4-08; published 2-8-08 [FR E8-02356]

Eurocopter France Model AS-365N2 and N3, SA-365C, C1 and C2, and SA-365N and N1 Helicopters; comments due by 3-6-08; published 2-20-08 [FR E8-02849]

Gulfstream Aerospace LP Model Gulfstream G150 Airplanes; comments due by 3-6-08; published 2-5-08 [FR E8-01988]

Lycoming Engines, Fuel Injected Reciprocating Engines; comments due by 3-3-08; published 1-2-08 [FR E7-25456]

McDonnell Douglas Model DC 8 31, DC 8 32, DC 8 33, DC 8 41, DC 8 42, and DC 8 43 Airplanes, et al.; comments due by 3-3-08; published 1-18-08 [FR E8-00854]

Pacific Aerospace Limited Model 750XL Airplanes; comments due by 3-6-08; published 2-5-08 [FR E8-02046]

Robinson Helicopter Co. Models R22, R22 Alpha,

R22 Beta, R22 Mariner, R44 and R44 and R44 II Helicopters; comments due by 3-3-08; published 1-3-08 [FR E7-25395]

Rolls Royce Deutschland Ltd & Co KG, BR700 715A1 30, BR700 715B1 30, and BR700 715C1 30 Turbofan Engines; comments due by 3-6-08; published 2-5-08 [FR E8-02039]

Stemme GmbH & Co. KG Model S10-VT Powered Sailplanes; comments due by 3-3-08; published 1-31-08 [FR E8-01679]

Proposed Establishment of Class E Airspace:

Pagosa Springs, CO; comments due by 3-3-08; published 1-18-08 [FR E8-00850]

Proposed Establishment of Class E Airspace; Walden, CO; comments due by 3-3-08; published 1-18-08 [FR E8-00844]

TRANSPORTATION DEPARTMENT**Federal Highway Administration**

Agency Information Collection Activities; Proposals, Submissions, and Approvals; comments due by 3-7-08; published 2-6-08 [FR E8-02168]

TRANSPORTATION DEPARTMENT**National Highway Traffic Safety Administration**

Activities Under the United Nations Economic Commission for Europe 1998 Global Agreement: Head Restraints; comments due by 3-6-08; published 2-14-08 [FR E8-02521]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P.L.U.S." (Public Laws

Update Service) on 202-741-6043. This list is also available online at <http://www.archives.gov/federal-register/laws.html>.

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H.R. 4253/P.L. 110-186

Military Reservist and Veteran Small Business Reauthorization and Opportunity Act of 2008 (Feb. 14, 2008; 122 Stat. 623)

H.R. 3541/P.L. 110-187

Do-Not-Call Improvement Act of 2007 (Feb. 15, 2008; 122 Stat. 633)

S. 781/P.L. 110-188

Do-Not-Call Registry Fee Extension Act of 2007 (Feb. 15, 2008; 122 Stat. 635)

Last List February 15, 2008

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