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Presidential Documents

Title 3—

The President

Proclamation 8259 of May 21, 2008

National Maritime Day, 2008

By the President of the United States of America

A Proclamation

On National Maritime Day, America honors our highly skilled mariners who sail the high seas, support those on the front lines of the war on terror, and promote commerce around the world.

Since 1775, the United States Merchant Marine has served our country, helping America become a great maritime power. During the Second World War, courageous mariners were among those who suffered greatly—hundreds of ships were lost to enemy action, and many mariners made the ultimate sacrifice. We pay tribute to these heroes who answered the call to serve when our Nation needed them most. Today, our merchant mariners continue to protect our homeland, including by supporting our troops in Iraq and Afghanistan.

In times of peace and war, these brave patriots help keep our Nation safe and strengthen our economy. By transporting American goods across the oceans, merchant mariners facilitate commerce and advance trade. These Americans honor the noble traditions of seafarers and enrich our country's maritime heritage.

In recognition of the importance of the U.S. Merchant Marine, the Congress, by joint resolution approved on May 20, 1933, as amended, has designated May 22 of each year as ''National Maritime Day,'' and has authorized and requested that the President issue an annual proclamation calling for its appropriate observance.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 22, 2008, as National Maritime Day. I call upon the people of the United States to mark this observance by honoring the service of merchant mariners and by displaying the flag of the United States at their homes and in their communities. I also request that all ships sailing under the American flag dress ship on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of May, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 08–1302
Filed 5–23–08; 8:45 am]
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Rules and Regulations

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

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 305

[Docket No. APHIS–2006–0091]

Amendments to Treatments for Plant Pests

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations for the treatment of plant pests by removing two treatment options that we now believe to be ineffective at neutralizing their target plant pests. A review of these treatments found these options to be ineffective. We are also removing two treatment schedules that are no longer authorized for use and clarifying the fruits and vegetables on which two methyl bromide treatments may be used. These changes are necessary to ensure that ineffective or unauthorized treatments are not used and to clarify the regulations.

DATES: *Effective Date:* June 26, 2008.

FOR FURTHER INFORMATION CONTACT: Dr. Inder P.S. Gadh, Senior Risk Manager-Treatments, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–8758.

SUPPLEMENTARY INFORMATION:

Background

The phytosanitary treatments regulations contained in 7 CFR part 305 (referred to below as the regulations) set out standards and schedules for treatments required in 7 CFR parts 301, 318, and 319 for fruits, vegetables, and other articles to prevent the introduction or dissemination of plant pests or noxious weeds into or through the United States. On July 5, 2007, we published in the **Federal Register** (72 FR 36629–36632, Docket No. APHIS–2006–0091) a proposal [1] to amend the regulations by:

- Amending two treatments to remove options that we now believe to be ineffective at neutralizing their target plant pests;
- Removing two treatment schedules that are no longer authorized for use; and
- Clarifying the fruits and vegetables on which two methyl bromide treatments may be used.

We solicited comments concerning our proposal for 60 days ending September 4, 2007. We received one comment by that date, from the national plant protection organization of a foreign country. We address the issues raised by the commenter in the following paragraphs.

The regulations in § 305.2 allow grapes from Australia to enter the United States if they are treated in accordance with methyl bromide/cold treatment combination treatment MB&CT T108-b, found in § 305.10 of the regulations, in order to neutralize the plant pests *Austrotortrix* spp., *Epiphyas* spp., *Bactrocera tryoni,* Mediterranean fruit fly (Medfly), and other fruit flies. The regulations in § 305.2 also provide for the use of MB&CT T108-b to qualify apples, grapes, and pears for interstate movement from areas within the United States that are quarantined due to the presence of Medfly. This treatment schedule has stipulated that these commodities first be fumigated with methyl bromide and then held at either 33 °F or below for 21 days, or between 48 °F and 56 °F for 6 days. In the proposed rule, we stated that our review of these two options had led us to determine that there was not adequate scientific justification to conclude that these pests could be neutralized if the cold treatment option of holding the fruit between 48 °F and 56 °F for 6 days was used. We therefore proposed to remove this option from the regulations.

The commenter stated that we had failed to provide a citation for our review, or scientific information in support of such a change, and asked that such information be provided in this final rule.

Our review evaluated the scientific justification for each component of the various MB&CT treatment schedules to ensure that all supporting data incorporated and thus adequately reflected the pertinent research on the efficacy of such treatments at neutralizing their target pests. This review revealed the absence of any supporting scientific evidence suggesting that the cold treatment option that we are removing from the regulations is an effective deterrent for its target pests. Indeed, the review determined that the inclusion of this treatment option in the regulations was the result of a long-standing clerical error in the Plant Protection and Quarantine (PPQ) Treatment Manual. Cold treatment at a temperature between 48 °F and 56 °F is an effective component of treatment schedule T108–a–3, where fumigation is performed with a higher dose and for a longer duration than under T108-b. It appears that this temperature range option was inadvertently copied into treatment schedule T108-b, where its efficacy had not been established. When we moved the treatment schedules from the PPQ Treatment Manual into the regulations in part 305, this error was repeated.

However, we welcome any research suggesting that this treatment is, in fact, effective at neutralizing its target pests, and therefore ought to be reintroduced into the regulations.

Fumigation according to methyl bromide treatment schedule MB T104–a–1, in accordance with the methyl bromide treatment regulations in § 305.6, has been listed as an approved treatment for hitchhikers or surface pests, except mealybugs, for all imported fruits and vegetables. Similarly, fumigation according to methyl bromide treatment schedule MB T104–a–2 has been listed as an approved treatment for mealybugs for all imported fruits and vegetables. In the proposed rule, we pointed out that only some fruits and vegetables are approved by the Environmental Protection Agency to be treated with methyl bromide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). We therefore proposed to update the commodity entries in the table in § 305.2(h)(2)(i) for MB T104–a–1 and MB T104–a–2 to clarify that only imported fruits and

[1] To view the proposed rule and the comment we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2006–0091.*

vegetables approved under FIFRA for treatment with methyl bromide, rather than all imported fruits and vegetables, may be treated according to those treatment schedules.

The commenter suggested that we not change the regulations to specify the commodities approved under FIFRA, since that act could be amended in the future to include or exclude certain fruits or vegetables, and any such revisions to FIFRA would necessitate subsequent revisions to our regulations. Instead, the commenter suggested that any references to specific commodities approved under FIFRA be contained in an updated PPQ Treatment Manual.

We did not propose to list specific commodities in the regulations; rather, we proposed to amend the entry for ''all imported fruits and vegetables'' in order to make it clear that the two methyl bromide treatments could be applied only to those fruits and vegetables that are approved for treatment with methyl bromide under FIFRA.

The commenter also pointed out that FIFRA applies only to the use and sale of specific chemicals within the United States. Accordingly, the commenter suggested that we revise the wording of § 305.2 to make it clear that FIFRA does not apply to the sale or use of specific chemicals or classes of chemicals in any other country.

We do not believe that it is necessary to make such a statement in our regulations, as they do not assert or imply that FIFRA's applicability extends to the regulation of chemicals by other countries.

The commenter also asserted that, because FIFRA has no authority in other countries, it is possible that a country may employ a methyl bromide fumigation treatment or fumigate an item not approved under FIFRA prior to exporting the commodity to the United States, and yet still comply with our quarantine requirements. For this reason, the commenter suggested that we also amend § 305.2 to specify that all imported foods must not exceed methyl bromide residue limits contained in 40 CFR 180.123.

If methyl bromide was not approved for use on a particular fruit or vegetable under FIFRA, then we would not prescribe its use as a quarantine treatment for that article. We cannot, therefore, envision any circumstances under which an article that we did not require to be treated with methyl bromide would be so treated anyway, or if it was treated with methyl bromide rather than the treatment required under the regulations, that the article would be eligible for entry into the United States.

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. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

We are amending the regulations for the treatment of plant pests by removing two treatment options that we now believe to be ineffective at neutralizing their target plant pests. A review of these treatments found these options to be ineffective. We are also removing two treatment schedules that are no longer authorized for use and clarifying the fruits and vegetables on which two methyl bromide treatments may be used. These changes are necessary to ensure that ineffective or unauthorized treatments are not used and to clarify the regulations.

Removing treatment schedules T409–c–1 and T409–c–3 from the regulations is not expected to have any economic impacts because, to our knowledge, these treatments have not been used for many years. Clarifying that treatment schedules MB T104–a–1 and MB T104–a–2 are approved only for those imported fruits and vegetables that are approved for treatment with methyl bromide under FIFRA is not expected to have any economic effects because it simply clarifies the circumstances under which APHIS will perform or authorize the treatments. Therefore, this economic analysis concentrates on the potential economic effects of amending two treatment options for fruits and vegetables.

We are amending methyl bromide treatment schedule MB T101–j–2–1 to indicate that it may only be performed at a temperature of 80 °F or above. The commodities for which this treatment is an approved treatment will not change. The treatment schedule is approved for *Anastrepha* spp. fruit flies in grapefruits, oranges, and tangerines from Mexico and for *Anastrepha ludens* (Mexican fruit fly) in grapefruits, oranges, and tangerines moved interstate from areas within the United States that are quarantined due to the presence of Mexican fruit fly.

We are also amending the methyl bromide-cold treatment combination treatment schedule MB&CT T108–b to remove the cold treatment option of holding the fruit between 48 °F and 56 °F for 6 days. The other options available for this MB&CT treatment and the commodities for which this treatment is an approved treatment will not change. The treatment schedule is approved for *Austrotortrix* spp., *Epiphyas* spp., *Bactrocera tryoni,* Medfly, and other fruit flies in grapes from Australia and for Medfly in apples, grapes, and pears moved interstate from areas within the United States that are quarantined due to the presence of Medfly.

Depending on the actual cost increases that occur because of changes to the treatment schedules for MB T101–j–2–1 and MB&CT T108–b, foreign suppliers or domestic suppliers located in quarantined areas may experience a cost increase, and consequently the quantity of fruit or vegetables shipped could decrease. This decrease in the quantity shipped could result in a price increase, benefiting U.S. producers and suppliers located outside quarantined areas.

In reality, negative effects of the changes in treatment requirements will be negligible; any changes in treatment costs associated with these amendments to the treatment schedules will represent a small fraction of the prices of the fruits and vegetables. Additionally, import quantities affected are small to nonexistent. Grapefruit, orange, and tangerine imports from Mexico represent less than one-half of 1 percent of domestic supply, and there are no records of apple, grape, or pear imports from Australia.

Domestically, this rule amends approved treatments for regulated articles moved interstate from areas quarantined due to Medfly. If the changes affect treatment costs or shipping expenses, U.S. entities that could be affected include producers of Medfly host crops, many of which are categorized within the following North American Industry Classification System subsectors: NAICS 111310, Orange Groves; NAICS 111320, Citrus (except Orange) Groves; NAICS 111331, Apple Orchards; NAICS 111332, Grape Vineyards; NAICS 111334, Berry (except Strawberry) Farming; NAICS 111335, Tree Nut Farming; NAICS 111336, Fruit and Tree Nut Combination Farming; and NAICS 111339, Other Noncitrus Fruit Farming. Other entities that could be affected are fruit and vegetable wholesalers (NAICS 422480), supermarkets and other grocery stores (NAICS 445110), warehouse clubs and superstores (NAICS 452910), and fruit and vegetable markets (NAICS 445230).

Other than warehouse clubs and superstores, the vast majority of the businesses that compose these industries are small entities. The Small Business Administration (SBA) classifies Medfly host crop operations as

small entities if their annual receipts are not more than $750,000.[2] According to the 2002 Census of Agriculture, there were 446 operations that were engaged in the production of citrus and noncitrus fruits. Over 99 percent of these entities were designated as small entities. The SBA classifies fresh fruit and vegetable merchant wholesalers (NAICS code 422480) as small entities if they employ 100 or fewer employees. According to the 2002 Economic Census there were 4,644 of these entities nationally, with 484 (or 10.4 percent) of them considered to be large. SBA classifies supermarkets and other grocery stores (NAICS 445110) as small entities if their annual receipts are not more than $25 million. There were 56,577 supermarkets and other groceries in 2002. Of these, only 3,477 or 6.1 percent are considered to be large. Fruit and vegetable markets (NAICS 445230) are considered small if their annual sales are not more than $6.5 million. In 2002, the most recent year for which data are available, the census reported 2,257 fruit and vegetable markets.[3] Approximately 96 percent of these are considered to be small entities by SBA standards. The census also reported 2,761 warehouse clubs and superstores (NAICS 452910), which are classified as small entities if their annual sales are not more than $25 million. Of the above total, 2,593, or 93.9 percent, are classified as large entities.

The majority of entities that could be affected by the rule are small entities. However, any effects will be minimal.

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 inconsistent 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 for 7 CFR Part 305

Irradiation, Phytosanitary treatment, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 7 CFR part 305 as follows:

PART 305—PHYTOSANITARY TREATMENTS

■ 1. The authority citation for 7 CFR part 305 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 305.2 is amended as follows:

■ a. In the table in paragraph (g), by removing, in the entry for Aircraft, the words ''Fruit flies and soft-bodied insects'' in the Pest column and ''Aerosol T409–c–1 or Aerosol T409–c–3.'' in the Treatment column.

■ b. In the table in paragraph (h)(2)(i), under All, by revising the entry for ''All imported fruits and vegetables'' and by adding a new entry for ''All imported fruits and vegetables approved for treatment with methyl bromide under the Federal Insecticide, Fungicide, and Rodenticide Act '' to read as set forth below.

§ 305.2 Approved treatments.

* * * * *

(h) * * *

(2) * * *

(i) * * *

Location	Commodity	Pest	Treatment schedule
All	All imported fruits and vegetables	Most	Quick freeze T110.
	All imported fruits and vegetables approved for treatment with methyl bromide under the Federal Insecticide, Fungicide, and Rodenticide Act.	Hitchhiker pests or surface pests, except mealybugs.	MB T104–a–1.
		Mealybugs	MB T104–a–2.
*	*	*	*

* * * * *

■ 3. In § 305.6, in the table in paragraph (a), the entry for T101–j–2–1 is revised to read as follows.

§ 305.6 Methyl bromide fumigation treatment schedules.

(a) * * *

Treatment schedule	Pressure	Temperature (°F)	Dosage rate (lb/1,000 cubic feet)	Exposure period (hours)
*	*	*	*	*
T101–j–2–1	NAP	80 or above	2.5	2
*	*	*	*	*

[2] SBA, Small business Size Standards matched to North American Industry Classification System 2002, Effective January 2006 (*http://www.sba.gov/size/sizetable2002.html*).

[3] U.S. Census Bureau, 2002 Economic Census Geographic Area Series: Manufacturing and Wholesale Trade, Revised January 2006 (*http://www.census.gov/econ/census02/guide/geosumm.htm*).

■ 4. Section 305.9 is amended as follows:

■ a. By revising the section heading to read as set forth below.

■ b. By revising paragraph (b), including the table, to read as set forth below.

§ 305.9 Aerosol spray for aircraft treatment schedule.

* * * * *

(b) *Aerosol schedule.*

Treatment schedule	Aerosol	Rate
T–409b	d-phenothrin (10%).	8g/1,000 ft^3.

■ 5. In § 305.10, in the table in paragraph (a)(3), the entry for T–108b is revised to read as follows:

§ 305.10 Treatment schedules for combination treatments.

(a) * * *

(3) * * *

Treatment schedule	Type of treatment	Temperature (°F)	Dosage rate (lb/1,000 cubic feet)	Exposure period (hours)
*	*	*	*	*
T108–b	MB	50 or above	1.5	2 hours.
		40–49	2	2 hours.
	CT	33 or below	.....	21 days.
*	*	*	*	*

* * * * *

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–11740 Filed 5–23–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1427

RIN 0560–AH78

Cotton World Price Determination

AGENCY: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Commodity Credit Corporation (CCC) is revising the Upland Cotton regulations to use Far East prices instead of Northern Europe prices in determining the upland cotton adjusted world price (AWP). The change is being made because of changes in the market and in the available price data. The AWP is used to determine repayment rates for marketing assistance loans (MAL) and to establish loan deficiency payments (LDP).

DATES: *Effective Date:* May 23, 2008.

FOR FURTHER INFORMATION CONTACT: Scott Sanford, Fibers, Peanuts, and Tobacco Analysis Director, Economic and Policy Analysis Staff, Farm Service Agency, United States Department of Agriculture (USDA), Stop 0515, 1400 Independence Ave., SW., Washington, DC 20250–0515. Telephone: (202) 720–3392. Electronic mail: *Scott.Sanford@wdc.usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

CCC administers the commodity loan program for upland cotton. Under section 1204 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171, 7 U.S.C. 7934), repayment of the loan is allowed at the AWP in lieu of what would otherwise be full repayment of the loan plus interest. Under section 1204, AWP is the ''prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.'' No particular formula is set by the statute for determining the prevailing world price; however, as specified in the regulation in 9 CFR 1427.25, for the 2007 and preceding crops CCC has used a northern Europe (NE) price. While the statute does not require the use of an NE price for this purpose the statute does require the use of an NE price for certain other purposes, one being in connection with an adjustment, under section 1234(e), to the otherwise determined AWP, and the other being in connection with import quotas under section 1237(b). AWP's are announced each Thursday and are generally based on quotes for a particular crop—that is, cotton in a particular crop year. The changeover from one crop to the next occurs in April. By regulation, there is a 6-week phase-in period in which the old and new crop prices are mixed progressively in favor of new crop prices.

This rule changes the basic AWP determination to a Far East (FE) rather than NE basis. At one time, northern Europe was a center of cotton trade. However, in recent years much of the focus of world trade in cotton has moved to the Pacific Rim countries, especially China. Now, the vast majority of U.S. cotton exports are destined for the Far East, with smaller shares to South Asia, Mexico, and Turkey. Less than one percent of U.S. cotton exports are now bound for Northern Europe. Also, Cotlook, Ltd. (Cotlook), the supplier of NE quotes, has announced that it will not publish forward crop quotes, NE basis, for the 2008 season. No NE quotes will be published by Cotlook at all after July 31, 2008. By contrast, Cotlook will continue to publish Far East prices. There is no alternative, preferable reporting system. The coarse count adjustment of section 1427.25(f) of the regulations will be made on an FE rather than NE basis. In the two instances in which an NE basis is statutorily required those determinations will be made using such direct or indirect data as may be available.

Notice and Comment

These regulations are exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553), as specified in section 1601(c) of the 2002 Farm Bill, which requires that the regulations be promulgated and administered without regard to the notice and comment provisions of section 5 of title 5 of the United States Code or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking.

Executive Order 12866

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866 and, therefore, OMB reviewed this final rule. A cost-benefit assessment of this rule was completed and is available from the contact information above.

Summary of Economic Impacts

The switch to FE as the basis for determining the cotton AWP is expected to generate modest savings as lower transportation costs to the FE. The net effect will likely raise the AWP, reducing CCC's exposure on marketing loan benefits.

Counter-cyclical payments are not affected because the change to FE quotes does not affect the marketing year average price that triggers counter-cyclical payments.

Recent survey results quantify the transportation cost savings associated with a shift from the NE to the FE market. Annually, CCC conducts a survey of transportation costs for delivering U.S. cotton to foreign ports. In the February 2008 survey, shippers were asked to estimate their costs for delivery to FE as well as NE ports, resulting in NE costs of 14.52 cents per pound and FE costs of 12.41 cents per pound. The difference, 2.11 cents per pound, more than offsets the historical average of 1.07 cents per pound by which FE quotes exceed NE quotes. As a result, the AWP on an FE basis will be 1.04 cents per pound higher (2.11 cents minus 1.07 cents) than it would be on an NE basis, and marketing loan benefits (when available) will be 1.04 cents per pound lower. Based on a 20-million bale crop (the average of recent years), marketing loan benefits (when available) would be $104 million per year lower using Far East quotes.

The change recognizes the shift in world cotton trade to the FE market that has occurred over time. In addition, it allows the program to operate in the manner that provides a smooth transition between crop years, while reducing potential CCC budgetary outlays.

Regulatory Flexibility Act

This rule is not subject to the Regulatory Flexibility Act since CCC is not required to publish a notice of proposed rulemaking for this rule.

Environmental Review

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4347, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA (7 CFR part 799). The following final rule was determined to be Categorically Excluded. Therefore, no environmental assessment or environmental impact statement will be completed for this final rule.

Executive Order 12372

This program is not subject to Executive Order 12372, which requires consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published in the **Federal Register** on June 24, 1983 (48 FR 29115).

Executive Order 12612

This rule does not have Federalism implications that warrant the preparation of a Federalism Assessment. This rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988. This final rule is not retroactive and it does not preempt State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. Before any judicial action may be brought regarding the provisions of this rule the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Unfunded Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the UMRA for State, local, and tribal government or the private sector. In addition, CCC was not required to publish a notice of proposed rulemaking for this rule. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

Section 1601(c)(3) of the 2002 Farm Bill requires that the Secretary use the authority in section 808 of title 5, United States Code, which allows an agency to forgo SBREFA's usual 60-day Congressional Review delay of the effective date of a major regulation if the agency finds that there is a good cause to do so. Accordingly, this rule is effective upon publication in the **Federal Register**.

Paperwork Reduction Act

These regulations are exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. Chapter 35), as specified in section 1601(c)(2)(A) of the 2002 Farm Bill, which provides that these regulations be promulgated and administered without regard to the Paperwork Reduction Act.

E-Government Act Compliance

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

List of Subjects in 7 CFR Part 1427

Cotton, Cottonseeds, Loan programs-agriculture, Packaging and containers, Price support programs, Reporting and recordkeeping requirements, Surety bonds, Warehouses.

■ Accordingly, amend 7 CFR part 1427 as follows:

PART 1427—COTTON

■ 1. Revise the authority for part 1427 to read as follows:

Authority: 7 U.S.C. 7231–7236, 15 U.S.C. 714b and 714c, Public Law 108–324, Public Law 108–447, and Public Law 109–234.

■ 2. Amend § 1427.3 as follows:

■ a. Remove the definition of ''current shipment price'' and add a new definition, in alphabetical order, for the term ''current northern Europe shipment''.

■ b. Remove the definition of ''forward shipment price'' and add a new definition, in alphabetical order, for the term ''Forward northern Europe shipment'' to read as follows.

■ c. Amend the definition of ''U.S. Northern Europe current price'' by removing the words ''current shipment'' and adding the words ''current northern Europe shipment'' in their place.

■ d. Revise the definition of ''U.S. Northern Europe forward price'' by removing the words ''forward shipment'' and adding the words ''forward northern Europe shipment'' in their place.

■ e. Add new definitions, in alphabetical order, for the following terms ''Current Far East shipment price,'' ''Far East current price,'' ''Far East forward price,'' ''Far East price,'' ''Forward Far East shipment price,'' ''U.S. Far East current price,'' ''U.S. Far East forward price,'' and ''U.S. Far East price,'' as set forth below:

§ 1427.3 Definitions.

* * * * *

Current Far East shipment price means, during the period in which two daily price quotations are available for the growth quoted for M 1 3/32 inch cotton, CFR (cost and freight) Far East, the price quotation for cotton for shipment no later than August/September of the current calendar year.

Current northern Europe shipment means, during the period in which two daily price quotations are available for the growth quoted for M 1 3/32 inch cotton, C.I.F. northern Europe, the price quotation for cotton for shipment no later than August/September of the current calendar year.

* * * * *

Far East current price means the average for the preceding Friday through Thursday of the current shipment prices for the five lowest-priced growths of the growths quoted for M 1 3/32 inch cotton, CFR Far East.

Far East forward price means the average for the preceding Friday through Thursday of the forward shipment prices for the five lowest-priced growths of the growths quoted for M 1 3/32 inch cotton, CFR Far East.

Far East price means, during the period in which only one daily price quotation is available for the growth quoted for M 1 3/32 inch cotton, CFR Far East, the average of the price quotations for the preceding Friday through Thursday of the five lowest-priced growths of the growths quoted for M 1 3/32 inch cotton, CFR Far East.

* * * * *

Forward Far East shipment price means, during the period in which two daily price quotations are available for the growths quoted for M 1 3/32 inch cotton, CFR Far East, the price quotation for cotton for shipment no earlier than October/November of the current calendar year.

Forward northern Europe shipment means, during the period in which two daily price quotations are available for the growths quoted for M 1 3/32 inch cotton, C.I.F. northern Europe, the price quotation for cotton for shipment no earlier than October/November of the current calendar year.

* * * * *

U.S. Far East current price means the average for the preceding Friday through Thursday of the current Far East shipment prices for the lowest-priced U.S. growth as quoted for M 1 3/32 inch cotton, CFR Far East.

U.S. Far East forward price means the average for the preceding Friday through Thursday of the forward Far East shipment prices for the lowest-priced U.S. growth as quoted for M 1 3/32 inch cotton, CFR Far East.

U.S. Far East price means, during the period in which only one daily price quotation is available for the U.S. growths quoted for M 1 3/32 inch cotton, CFR Far East, the average of the price quotations for the preceding Friday through Thursday of the lowest-priced U.S. growth as quoted for M 1 3/32 inch cotton, CFR Far East.

* * * * *

■ 3. Amend § 1427.25 as follows:

■ a. Revise the following paragraphs to read as set forth below: paragraphs (a)(1), (a)(2), (c)(1)(i)(B), (d)(2)(i), (f)(2)(i)(B), and (g).

■ b. In paragraph (a)(3), remove the words ''Northern Europe price (NE)'' and add, in their place the words ''Far East price (FE).''

■ c. In the following places, remove the abbreviation ''NE'' and add, in their place the abbreviation ''FE:''

i. Paragraph (c) introductory text,

ii. Paragraph (c)(1) introductory text, and

iii. Paragraph (f)(2)(i) introductory text.

■ d. In paragraphs (f)(2)(iii) and (f)(3) introductory text, remove the words ''Northern Europe'' and add, in their place the words ''Far East.''

■ e. In the following places, remove the words ''C.I.F. northern Europe'' and add, in their place each time they appear, the words ''CFR Far East:''

i. Paragraph (c)(1)(i)(A),

ii. Paragraph (d)(1) introductory text,

iii. Paragraph (d)(2) introductory text,

iv. Paragraph (d)(3)(i), and

v. Paragraph (f)(2)(i)(A).

■ f. In paragraph (c)(4)(i)(B), add the abbreviation ''(NE)'' immediately following the words ''northern Europe.''

■ g. In paragraph (c)(4)(ii), remove the word ''shipment'' and add, in its place each time it appears, the words ''northern Europe shipment:''

■ h. In paragraph (c)(4)(iv)(B), remove the reference ''paragraph (a)'' and add, in its place, the reference ''paragraph (c).''

■ i. In paragraphs (d)(1)(i) and (ii), remove the words ''northern Europe'' and add, in their place each time they appear, the words ''the Far East:''

■ j. In paragraph (d)(2)(i), remove the words ''northern Europe quotation'' and add, in their place, the words ''Far East quotation.''

■ k. In paragraph (e), remove the word ''Standard'' each time it appears.

§ 1427.25 Determination of the prevailing world market price and the adjusted world price for upland cotton.

(a) * * *

(1) During the period when only one daily price quotation is available for each growth quoted for Middling one and three-thirty-second inch (M 1 3/32 inch) cotton, CFR (cost and freight) Far East, the prevailing world market price for upland cotton will be based on the average of the quotations for the preceding Friday through Thursday for the 5 lowest-priced growths of the growths quoted for M 1 3/32 inch cotton, CFR Far East.

(2) During the period when both a price quotation for cotton for shipment no later than August/September of the current calendar year (current Far East shipment price) and a price quotation for cotton for shipment no earlier than October/November of the current calendar year (forward Far East shipment price) are available for growths quoted for M 1 3/32 inch cotton, CFR Far East, the prevailing world market price for upland cotton will be based on the following: Beginning with the first week covering the period Friday through Thursday that includes April 15 or, if both the average of the current Far East shipment prices for the preceding Friday through Thursday for the 5 lowest-priced growths of the growths quoted for M 1 3/32 inch cotton, CFR Far East (Far East current price (FEc)), and the average of the forward Far East shipment prices for the preceding Friday through Thursday for the 5 lowest-priced growths of the growths quoted for M 1 3/32 inch cotton, CFR Far East (Far East forward price (FEf)), are not available during that period, beginning with the first week covering the period Friday through Thursday after the week which includes April 15 in which both the FEc and FEf price are available, the prevailing world market price for upland cotton will be based on the result calculated by the following procedure:

(i) Weeks 1 and 2: $((2 \times FEc) + FEf)/3$.

(ii) Weeks 3 and 4: $(FEc + FEf)/2$.

(iii) Weeks 5 and 6: $(FEc + (2 \times FEf))/3$.

(iv) Week 7 through July 31: FEf.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(B) The average of the current Far East shipment prices for U.S. Memphis territory and the California/Arizona territory as quoted each Thursday for M 1 3/32 inch cotton, CFR Far East, during the period when both current Far East shipment prices and forward Far East shipment prices for such growths are available; and

* * * * *

(d) * * *

(2) * * *

(i) May use the available Far East quotation to determine the difference

between the average price quotations for the U.S. Memphis territory and the California/Arizona territory, as quoted for M 1 3/32 inch cotton, CFR Far East, and the average price of M 1 3/32 inch, leaf 3, (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 25.5 through 29.4 grams per tex, length uniformity 80 through 82 percent) cotton, as quoted each Thursday in the designated U.S. spot markets for that week, or

* * * * *

(f) * * *

(2) * * *

(i) * * *

(B) During the period when both current Far East shipment prices and forward Far East shipment prices are available for the growths quoted for ''coarse count'' cotton, CFR Far East, the result calculated by the following procedure: Beginning with the first week covering the period Friday through Thursday including April 15 or, if both the average of the current Far East shipment prices for the preceding Friday through Thursday for the three lowest-priced growths of the growths quoted for ''coarse count'' cotton, CFR Far East (Far East coarse count current price (FECCc)), and the average of the forward Far East shipment prices for the preceding Friday through Thursday for the three lowest-priced growths of the growths quoted for ''coarse count'' cotton, CFR Far East (Far East coarse count forward price (FECCf)), are not available during that period, beginning with the first week covering the period Friday through Thursday after the week including April 15 in which both the Far East coarse count current price and the Far East coarse count forward price are available:

(*1*) Weeks 1 and 2: (2 × FECCc) + FECCf)/3;

(*2*) Weeks 3 and 4: (FECCc + FECCf)/2;

(*3*) Weeks 5 and 6: (FECCc + (2 × FECCf))/3; and

(*4*) Week 7 through July 31: The FECCf, minus:

* * * * *

(g) If the 6-week transition period from using current Far East shipment prices to using forward Far East shipment prices in the determination of the FE under paragraph (a)(2) of this section, and the Far East coarse count price under paragraph (f)(2)(i)(B) of this section do not begin at the same time, CCC will use either current Far East shipment prices, forward Far East shipment prices, or any combination thereof to determine the FE and/or the Far East coarse count price used in the determination of the adjustment for upland cotton under paragraph (f)(1) of this section and determined under paragraph (f)(2) of this section to prevent distortions in such adjustment.

* * * * *

Signed at Washington, DC, on May 20, 2008.

Teresa C. Lasseter,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. E8–11803 Filed 5–23–08; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1767

RIN 0572–AC08

Accounting Requirements for RUS Electric Borrowers

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service, an agency delivering the United States Department of Agriculture's Rural Development Utilities Programs, hereinafter referred to as Rural Development and/or Agency, is amending its regulation on accounting policies and procedures for Rural Development Electric Programs borrowers as set forth in 7 CFR part 1767, Accounting Requirements for Rural Development Electric Program Borrowers. This final rule reconciles Part 1767 with the Uniform System of Accounts as set forth by the Federal Energy Regulatory Commission (FERC); adopts FERC accounting guidance for Regional Transmission Organizations, Asset Retirement Obligations with modifications, Other Comprehensive Income, and Derivatives and Hedging Instruments; amends accounting interpretations for Special Equipment Accounting, Storm Damage, Rural Economic Development Loan and Grant Program and Consolidated Financial Statements; sets forth an accounting interpretation to establish uniform reporting procedures for Accounting for Cushion of Credit Accounts, and codifies guidance on records retention currently published in Bulletin 180–2. This final rule also corrects a number of administrative errors existing within this part. The section of the proposed rule that deals with accounting for and reporting on Renewable Energy Credits will be addressed in a subsequent final rule.

EFFECTIVE DATE: May 27, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Diana C. Alger, Chief, Technical Accounting and Auditing Staff, Program Accounting Services Division, Rural Development, STOP 1523, Room 2221, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 720–5227.

SUPPLEMENTARY INFORMATION:

General Discussion

On July 13, 2007 the Agency published a proposed rule in the **Federal Register** (72 FR 38511) entitled *Accounting Requirements for RUS Electric Program Borrowers*, and the public was invited to submit comments on or before September 11, 2007. Comments were received and are addressed in the Discussion Comment section of this rule. One issue still under consideration is the renewable energy credit market. The Agency has determined that it is best to defer any decisions on this accounting treatment until further information is available. A separate rulemaking will address this issue and will be published in the **Federal Register** at a future date.

Background

In order to facilitate the effective and economical operation of a business enterprise, adequate and reliable financial records must be maintained. Accounting records must provide a clear, accurate picture of current economic conditions from which management can make informed decisions in charting the company's future. The rate regulated environment in which an electric utility operates causes an even greater need for financial information that is accurate, complete, and comparable with that of other electric utilities.

Rural Development, as a Federal lender and mortgagee, and in furthering the objectives of the Rural Electrification Act (RE Act) (7 U.S.C. 901 *et seq.*), has a legitimate programmatic interest and a substantial financial interest in requiring adequate records to be maintained. In order to provide Rural Development with financial information that can be analyzed and compared with the operations of other borrowers in the Rural Development program, all Rural Development borrowers must maintain financial records that utilize uniform accounts and uniform accounting policies and procedures. The standard Rural Development security instrument, therefore, requires borrowers to maintain their books, records, and accounts in accordance with methods and principles of accounting prescribed by Rural Development in the Rural Development Uniform System of

Accounts (USoA) for its electric borrowers.

The Uniform System of Accounts promulgated by the Federal Energy Regulatory Commission (FERC) serves as a basis for this part. When new or revised accounting guidance is provided by FERC for electric utilities, Rural Development must review this guidance within the framework of this part for applicability to its borrowers. FERC issued Order 627, Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities, on October 10, 2002. After reviewing Order 627, Rural Development has determined that this guidance shall be adopted with minor modification. Order 627 established Account 219, Accumulated Other Comprehensive Income, an account number already in use in this part and identified as Other Margins and Equities. Therefore, Rural Development is establishing Account 209, Accumulated Other Comprehensive Income, and modify Section 1767.15(w) Accounting for Other Comprehensive Income, accordingly. All other accounts and instructions are adopted as set forth in Order 627.

On April 9, 2003, FERC issued Order 631, Accounting, Financial Reporting and Rate Filing Requirements for Asset Retirement Obligations. The purpose of this order was the incorporation of the requirements of Statement of Financial Accounting Standard No. 143, Accounting for Asset Retirement Obligations, issued in June 2001 by the Financial Accounting Standards Board. After reviewing Order 631, Rural Development has determined to adopt with minor modification. In addition to a number of changes in instructions and account descriptions to accommodate the prescribed accounting for Asset Retirement Obligations, FERC established new accounts to record transactions associated with asset retirement obligations. One of the new accounts created by Order 631 was Account 403.1, Depreciation Expense for Asset Retirement Costs. This account number is already used within the mandated subaccounts of 403 to represent Depreciation Expense—Steam Production Plant. Therefore, Rural Development is establishing Account 403.8, Depreciation Expense—Asset Retirement Obligations, and modifies paragraph (C) of the description for Account 103, Experimental Electric Plant Unclassified, accordingly. All other accounts and instructions are being adopted as set forth in Order 631 with one exception. Rural Development will not require that separate subsidiary records be maintained for the amount of accrued cost of removal other than legal obligations for the retirement of plant recorded in Account 108, Accumulated Provision for Depreciation of Electric Utility Plant.

Order 668, Accounting and Financial Reporting for Public Utilities Including Regional Transmission Organizations (RTO), issued by FERC on December 16, 2005, and clarifying Order 668–A, Accounting and Financial Reporting for Public Utilities Including RTOs, issued by FERC on April 20, 2006, amended the USoA and established standard accounting guidance for RTO costs to provide better comparability between utilities and to improve the transparency of financial information pertaining to RTOs along with a better understanding of RTO costs. The new accounts established by FERC in Order 668 and the instructions is being adopted by Rural Development. In 1997, in response to FERC Orders 888 and 889 on open access, Rural Development revised its USoA to require borrowers to allocate employee pensions and benefits expense, as well as payroll taxes and insurance costs to the appropriate functional operations, maintenance, and administrative expense accounts to which labor charges are accrued to make available to management reliable financial information concerning the actual cost of products and services it provides. To ensure comparable results, Rural Development has modified the newly added accounts to accommodate this allocation.

To ensure that borrowers consistently account for their financial operations and to keep pace with the changing environment in which they operate, the Rural Development USoA must be revised and updated from time to time. Rural Development is, therefore, amending and revising several accounting interpretations found in Section 1767.41, Accounting Methods and Procedures required of all Rural Development Borrowers. Interpretation 119, Special Equipment, is revised to conform to guidance provided in a Rural Development letter dated November 14, 2000, providing guidelines for requesting a waiver from the special equipment accounting procedures. Interpretation 136, Storm Damage, is revised to provide new guidance on accounting for reimbursements of storm damage by the Federal Emergency Management Administration. Interpretation 626, Rural Economic Development Loan and Grant Program, is revised to include accounting guidance for recording the default on the repayment of economic development loans made by borrowers to local economic development projects. Interpretation 404, Consolidated Financial Statements, is revised to clarify the requirements for reporting consolidated subsidiaries on Forms 7, Financial and Statistical Reports for Distribution Borrowers, and Form 12, Financial and Statistical Reports for Power Supply Borrowers and Electric Distribution Borrowers with Generating Facilities. Rural Development is also setting forth a new accounting interpretation that establishes uniform accounting and reporting procedures for Cushion of Credit Accounts which are created by voluntary unscheduled payment by a borrower in excess of amounts due and payable.

Bulletin 180–2, Record Retention Recommendations for Rural Development Electric Borrowers, effective June 26, 2003, currently provides the Agency's recommendations for record retention. This final rule codifies these requirements with modifications in subpart D.

The final rule contains a number of other revisions to make administrative corrections to addresses for submitting requests, position titles to update current versions of forms, to change publication names, and to correct errors found in the previously codified version of this part.

Summary of Comments

A proposed rule entitled, ''Accounting Requirements for RUS Electric Program Borrowers,'' published July 13, 2007, at 72 FR 38511, invited interested parties to submit comments on or before September 11, 2007. The National Rural Electric Cooperative Association (NRECA), Southern Maryland Electric Cooperative, Inc, and the National Rural Utilities Cooperative Finance Corporation (CFC) submitted comments. No comments from any other sources were received. The comments submitted by NRECA represent the views of its members. The following paragraphs address the various topics that were discussed by the commenters.

Adoption of FERC Order 668

Comment: CFC concurred with the Agency's adoption of recent FERC orders and suggested that the Agency incorporate FERC Order 668–A which made technical corrections to the original order and added clarification to certain netting concepts found in Order 668.

Agency Response: The Agency agrees with the recommendation and has revised the final rule accordingly.

Interpretation No. 633, Cushion of Credit

Comment: NRECA, on behalf of its members, expressed concern for what they see as an inappropriate matching of the requirement to record interest income from the cushion of credit account in Account 419, Interest and Dividend Income, with the requirement that the balance in the account be reported as an unapplied payment and netted against long-term debt. This commenter suggests that it may be more appropriate to record the balance in the cushion of credit account as an investment if the requirement remains to record the interest income in Account 419.

Agency Response: For purposes of the USoA and for reporting on the Forms 7 and 12, the Agency believes that its treatment for cushion of credit funds and interest earned is best suited for the substance of this transaction. While we recognize that this accounting treatment produces results unique to our borrowers, we expect and anticipate these results during our financial analysis and factor the results into our financial decision making.

However, a valid argument can be made for an alternative presentation on the audited financial statements, particularly if those statements are being used to support efforts to secure outside financing. Therefore, we revised the final rule to permit presentation of the cushion of credit balance as a long-term investment for financial statement presentation while maintaining the current treatment for Forms 7 and 12 reporting.

Interpretation No. 634, Renewable Energy Credits

Comment: All three commenters expressed dissatisfaction with the accounting guidance provided for Renewable Energy Credits.

Agency Response: Because of the controversy currently surrounding recording renewable energy credits, the lack of authoritative guidance from the Federal Energy Regulatory Commission or the Financial Accounting Standards Board, and the relative immaturity of the renewable energy credit market, the Agency has determined that it is best to defer any decisions on this accounting treatment until further information is available. The Agency will proceed with this final rule and address renewable energy credits in a later rulemaking.

Executive Order 12866

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

Regulatory Flexibility Act Certification

Pursuant to 5 U.S.C. 553(a)(2), this final rule is exempt from the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), including the requirement to provide prior notice and an opportunity for public comment. Because this final rule is not subject to a requirement to provide prior notice and an opportunity for public comment pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable.

Information Collection and Recordkeeping Requirements

This final rule contains no new reporting or recordkeeping burdens under OMB control number 0572–0003 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

National Environment Policy Act Certification

The Administrator of RUS has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this final rule is listed in the Catalog of Federal Domestic Assistance Program under numbers 10.850—Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325, (202) 512–1800.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require a consultation with State and local officials. See the final rule related notice entitled, ''Department Programs and Activities Excluded from Executive Order 12372'' (50 FR 47034) advising that Rural Development loans and loan guarantees were not covered by Executive Order 12372.

List of Subjects in 7 CFR Part 1767

Electric power, Loan programs—energy, Rural areas, Uniform System of Accounts, Administrative practice and procedure, and Agriculture.

■ For the reason set forth in the preamble, Rural Development hereby amends 7 CFR chapter XVII as follows:

PART 1767—ACCOUNTING REQUIREMENTS FOR RUS ELECTRIC BORROWERS

■ 1. The authority for part 1767 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*

■ 2. Amend § 1767.10 by:

■ a. Revising the definition of Cost of removal to read as set forth below;

■ b. Removing the definitions of *Capital lease* and *Operating Lease*; and

■ c. Adding the definitions of *Form 7*; *Form 12*; *Lease Capital*; *Lease Operating*; and *Regional Market* in alphabetical order as set forth below.

The additions and revision read as follows:

§ 1767.10 Definitions.

* * * * *

Cost of removal is the cost of demolishing, dismantling, tearing down or otherwise removing electric plant, including the cost of transportation and handling incidental thereto. It does not include the cost of removal activities associated with asset retirement obligations that are capitalized as part of the tangible long-lived assets that give rise to the obligation. (See Sec. 1767.15(y).

* * * * *

Form 7 is the January 2004 revision (or the revision of any other date which may be specified) of such Form 7, Financial and Statistical Report, or any later revision which shall have been at the time prescribed for use by Rural Development.

Form 12 is the December 2002 revision (or the revision of any other date which may be specified) of such Form 12, Operating Report—Financial, or any later revision which shall have been at the time prescribed for use by Rural Development.

* * * * *

Lease, capital is a lease of property used in utility or nonutility operations, which meets one or more of the criteria stated in § 1767.15(s).

Lease, operating is a lease of property used in utility or nonutility operations, which does not meet any of the criteria stated in § 1767.15(s).

* * * * *

Regional Market is an organized energy market operated by a public utility, whether directly or through a

contractual relationship with another entity.

* * * * *

■ 3. In § 1767.12, paragraph (a) is revised to read as follows:

§ 1767.12 Accounting system requirements.

(a) Each Rural Development electric borrower must maintain and keep its books of accounts and all other books and records that support the entries in such books of accounts in accordance with §§ 1767.13–1767.31.

* * * * *

■ 4. In § 1767.13, paragraph (a) is revised to read as set forth below, and paragraph (e) is amended by redesignating paragraph (e)(4) as (e)(5) and adding a new (e)(4) to read as follows:

§ 1767.13 Departures from the prescribed Rural Development uniform system of accounts.

(a) No departures are to be made to the prescribed Rural Development USoA without the prior written approval of Rural Development. Requests for departures from the Rural Development USoA shall be addressed, in writing, to the Assistant Administrator, Program Accounting and Regulatory Analysis. (AA–PARA).

* * * * *

(e) * * *

(4) A resolution from the borrower's Board of Directors authorizing such action; and

* * * * *

■ 5. Section 1767.14 is revised to read as follows:

§ 1767.14 Interpretations of the Rural Development uniform system of accounts.

To maintain uniformity in accounting, borrowers must submit questions concerning interpretations of the Rural Development USoA, in writing, to the AA–PARA, for consideration and decision.

(Approved by the Office of Management and Budget under control number 0572–0002).

■ 6. Amend § 1767.15, as follows:

■ a. Revise paragraphs (a)(4), (a)(6), and (t)(2) to read as set forth below;

■ b. Redesignate paragraphs (t)(3) and (t)(4) as (t)(4) and (t)(5), respectively, and add a new paragraph (t)(3) to read as set forth below; and

■ c. Add new paragraphs (v) through (y) to read as set forth below.

The additions and revisions read as follows:

§ 1767.15 General instructions.

(a) * * *

(4) No utility shall destroy any such books or records unless the destruction thereof is permitted by the rules and regulations contained in subpart D of this part.

* * * * *

(6) When the utility chooses to recognize the gain in the year of reacquisition as a taxable gain, Account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, shall be credited with the amount of the related tax effect, such amount to be allocated to the periods affected in accordance with the provisions of Account 190, Accumulated Deferred Income Taxes.

* * * * *

(t) * * *

(2) The utility shall record a capital lease as an asset in Account 101.1, Property Under Capital Leases, Account 120.6, Nuclear Fuel Under Capital Leases or Account 121, Nonutility Property;

(3) The utility, as a lessee, shall recognize an asset retirement obligation arising from the plant under a capital lease unless the obligation is recorded as an asset and liability under a capital lease. The utility shall record the asset retirement cost by debiting Account 101.1, Property Under Capital Leases, or Account 120.6, Nuclear Fuel Under Capital Leases, or Account 121, Nonutility Property, as appropriate, and crediting the liability for the asset retirement obligation in Account 230, Asset Retirement Obligations. Asset retirement costs recorded in Account 101.1, Account 120.6, or Account 121 shall be amortized by charging rent expense, or Account 518, Nuclear Fuel Expense, or Account 421, Miscellaneous Nonoperating Income, as appropriate, and crediting a separate subaccount of the account in which the asset retirement costs are recorded. Charges for the periodic accretion of the liability in Account 230, Asset Retirement Obligations, shall be recorded by a charge to Account 411.10, Accretion Expense, for electric utility plant, and Account 421, Miscellaneous Nonoperating Income, for nonutility plant and a credit to Account 230, Asset Retirement Obligations.

* * * * *

(v) *Depreciation Accounting.* (1) *Method.* Utilities must use a method of depreciation that allocates in a systematic and rational manner the service value of depreciable property over the service life of the property.

(2) *Service lives.* Estimated useful service lives of depreciable property must be supported by engineering, economic, and other depreciation studies.

(3) *Rate.* Utilities must use percentage rates of depreciation that are based on a method of depreciation that allocates in a systematic and rational manner the service value of depreciable property to the service life of the property. Where composite depreciation rates are used, they should be based on the weighted average estimated useful service lives of the depreciable property comprising the composite group.

(w) *Accounting for other comprehensive income.* (1) Utilities shall record items of other comprehensive income in Account 209, Accumulated Other Comprehensive Income. Amounts included in this account shall be maintained by each category of other comprehensive income. Examples of categories of other comprehensive income include foreign currency items, minimum pension liability adjustments, unrealized gains and losses on available-for-sale type securities and cash flow hedge amounts. Supporting records shall be maintained for Account 209 so that the cumulative amount of other comprehensive income for each item included in this account can be readily identified.

(2) When an item of other comprehensive income enters into the determination of net income in the current or subsequent periods, a reclassification adjustment shall be recorded in Account 209 to avoid double counting of that amount.

(3) When it is probable that an item of other comprehensive income will be included in the development of cost-of-service rates in subsequent periods, that amount of unrealized losses or gains will be recorded in Accounts 182.3, Other Regulatory Assets or 254, Other Regulatory Liabilities, as appropriate.

(x) *Accounting for derivative instruments and hedging activities.* (1) Utilities shall recognize derivative instruments as either assets or liabilities in the financial statements and measure those instruments at fair value, except those falling within recognized exceptions. Normal purchases or sales are contracts that provide for the purchase or sale of goods that will be delivered in quantities expected to be used or sold by the utility over a reasonable period in the normal course of business. A derivative instrument is a financial instrument or other contract with all of the following characteristics:

(i) It has one or more underlyings and a notional amount or payment provision. Those terms determine the amount of the settlement or settlements, and, in some cases, whether or not a settlement is required.

(ii) It requires no initial net investment or an initial net investment

that is smaller than would be required for other types of contracts that would be expected to have a similar response to changes in market factors.

(iii) Its terms require or permit net settlement, can readily be settled net by a means outside the contract, or provide for delivery of an asset that puts the recipient in a position not substantially different from net settlement.

(2) The accounting for the changes in the fair value of derivative instruments depends upon its intended use and designation. Changes in the fair value of derivative instruments not designated as fair value or cash flow hedges shall be recorded in Account 175, Derivative instrument assets, or Account 244, Derivative Instrument Liabilities, as appropriate, with the gains recorded in Account 421, Miscellaneous Nonoperating Income, and losses recorded in Account 426.5, Other Deductions.

(3) A derivative instrument may be specifically designated as a fair value or cash flow hedge. A hedge is used to manage risk to price, interest rates, or foreign currency transactions. A company shall maintain documentation of the hedge relationship at the inception of the hedge that details the risk management objective and strategy for undertaking the hedge, the nature of the risk being hedged, and how hedge effectiveness will be determined.

(4) If the utility designates the derivative instrument as a fair value hedge against exposure to changes in the fair value of a recognized asset, liability, or a firm commitment, it shall record the change in fair value of the derivative instrument to Account 176, Derivatives in Instrument Assets—Hedges, or Account 245, Derivative Instrument Liabilities—Hedges, as appropriate, with a corresponding adjustment to the subaccount of the item being hedged. The ineffective portion of the hedge transaction shall be reflected in the same income or expense account that will be used when the hedged item enters into the determination of net income. In the case of a fair value hedge of a firm commitment a new asset or liability is created. As a result of the hedge relationship, the new asset or liability will become part of the carrying amount of the item being hedged.

(5) If the utility designates the derivative instrument as a cash flow hedge against exposure to variable cash flows of a probable forecasted transaction, it shall record changes in the fair value of the derivative instrument in Account 176, Derivative Instrument Assets—Hedges, or Account 245, Derivative Instrument Liabilities—Hedges, as appropriate, with a corresponding amount in Account 209, Accumulated Other Comprehensive Income, for the effective portion of the hedge. The ineffective portion of the hedge transaction shall be reflected in the same account or expense account that will be used when the hedged item enters into the determination of net income. Amounts recorded in other comprehensive income shall be reclassified into earning in the same period or periods that the hedged forecasted item enters into the determination of net income.

(y) *Accounting for asset retirement obligations.* (1) An asset retirement obligation represents a liability for the legal obligation associated with the retirement of a tangible long-lived asset that a company is required to settle as a result of an existing or enacted law, statute, ordinance, or written or oral contract or by legal construction of a contract under the doctrine of promissory estoppel. An asset retirement cost represents the amount capitalized when the liability is recognized for the long-lived asset that gives rise to the legal obligation. The amount recognized for the liability and an associated asset retirement cost shall be stated at the fair value of the asset retirement obligation in the period in which the obligation is incurred.

(2) The utility shall initially record a liability for an asset retirement obligation in Account 230, Asset Retirement Obligations, and charge the associated asset retirement costs to electric utility plant (including Accounts 101.1 and 120.6), and nonutility plant, as appropriate, related to the plant that gives rise to the legal obligation. The asset retirement cost shall be depreciated over the useful life of the related asset that gives rise to the obligation. For periods subsequent to the initial recording of the asset retirement obligation, a utility shall recognize the period to period changes of the asset retirement obligation that result from the passage of time due to the accretion of the liability and any subsequent measurement changes to the initial liability for the legal obligation recorded in Account 230, Asset retirement obligations, as follows:

(i) The utility shall record the accretion of the liability by debiting Account 411.10, Accretion Expense, for electric utility plant, Account 413, Expenses of Electric Plant Leased to Others, for electric plant leased to others, and Account 421, Miscellaneous Nonoperating Income, for nonutility plant and crediting Account 230, Asset Retirement Obligations; and

(ii) The utility shall recognize any subsequent measurement changes of the liability initially recorded in Account 230, Asset Retirement Obligation, for each specific asset retirement obligation as an adjustment of that liability in Account 230 with the corresponding adjustment to electric utility plant, electric plant leased to others, and nonutility plant, as appropriate. The utility shall on a timely basis monitor any measurement changes of the asset retirement obligations.

(3) Gains or losses resulting from the settlement of asset retirement obligations associated with utility plant resulting from the difference between the amount of the liability for the asset retirement obligation included in Account 230, Asset Retirement Obligations, and the actual amount paid to settle the obligation shall be accounted for as follows:

(i) Gains shall be credited to Account 411.6, Gains from Disposition of Utility Plant, and;

(ii) Losses shall be charged to Account 411.7, Losses from Disposition of Utility Plant.

(4) Gains or losses on the settlement of asset retirement obligations associated with nonutility plant resulting from the difference between the amount of the liability for the asset retirement obligation in Account 230, Asset Retirement Obligations, and the amount paid to settle the obligation, shall be accounted for as follows:

(i) Gains shall be credited to Account 421, Miscellaneous Nonoperating Income, and;

(ii) Losses shall be charged to Account 426.5, Other Deductions.

(5) For purposes of analyses a utility shall maintain supporting documentation so as to be able to furnish accurately and expeditiously with respect to each asset retirement obligation the full details of the identity and nature of the legal obligation, the year incurred, the identity of the plant giving rise to the obligation, the full particulars relating to each component and supporting computations related to the measurement of the asset retirement obligation.

■ 7. Amend § 1767.16 as follows:

■ a. Add paragraph (a)(4) to read as set forth below;

■ b. Amend paragraph (c)(17)(i) by revising the value of W to read as set forth below; and,

■ c. Add paragraph (c)(21) to read as set forth below;

The additions and revisions read as follows:

§ 1767.16 Electric plant instructions.

(a) * * *

(4) Plant acquired by lease which qualifies as capital lease property under Sec. 1767.15(s), Criteria for Classifying Leases, shall be recorded in Account 101.1, Property Under Capital Leases, or Account 120.6, Nuclear Fuel Under Capital Leases, as appropriate.

* * * * *

(c) * * *

(17) * * *

(i) * * *

W = Average balance in construction work in progress plus nuclear fuel in process of refinement, conversion, enrichment, and fabrication, less asset retirement costs related to plant under construction.

* * * * *

(21) Asset retirement. The costs recognized as a result of asset retirement obligations incurred during the construction and testing of utility plant shall constitute a component of construction costs.

* * * * *

■ 8. Amend § 1767.18 as follows:

■ a. In the subject table, under heading *Utility Plant,* add entries 108.9, 175, and 176 to read as set forth below;

■ b. Under 101.1 Property Under Capital Leases, revise paragraph C. to read as set forth below;

■ c. Under 103 Experimental Electric Plant Unclassified, amend paragraph C. by revising the first sentence to read as set forth below;

■ d. Under 108 Accumulated Provision for Depreciation of Electric Utility Plant, amend paragraph C. by adding an entry for 108.9 to read as set forth below;

■ e. Revise paragraph A. of 121 Nonutility Property to read as set forth below;

■ f. Revise paragraph A. of 124 Other Investments to read as set forth below;

■ g. Revise 125 Sinking Funds to read as set forth below;

■ h. Revise 126 Depreciation Fund to read as set forth below;

■ i. Revise 128 Other Special Funds to read as set forth below;

■ j. Add Account 175 Derivative Instrument Assets to read as set forth below;

■ k. Add Account 176 Derivative Instrument Assets—Hedges to read as set forth below.

■ l. Revise paragraph B. of 182.3 Other Regulatory Assets to read as set forth below;

The additions and revisions read as follows:

§ 1767.18 Assets and other debits.

* * * * *

Utility Plant

* * * * *

108.9 Accumulated Provision for Depreciation of Asset Retirement Costs

175 Derivative Instrument Assets

176 Derivative Instrument Assets—Hedges

* * * * *

101.1 Property Under Capital Leases

* * * * *

C. Records shall be maintained with respect to each capital lease reflection:

(1) Name of lessor, (2) basic details of lease, (3) terminal date, (4) original cost or fair market value of property leased, (5) future minimum lease payments, (6) executory costs, (7) present value of minimum lease payments, (8) the amount representing interest and the interest rate used, and (9) expenses paid. Records shall also be maintained for plant under a lease, to identify the asset retirement obligation and cost originally recognized for each lease and the periodic charges and credits made to the asset retirement obligations and asset retirement costs.

* * * * *

103 Experimental Electric Plant Unclassified

* * * * *

C. The depreciation on property in this account shall be charged to Account 403.8, Depreciation Expense, for asset retirement costs, as appropriate, and credited to Account 108, Accumulated Provision for Depreciation of Electric Utility Plant. * * *

* * * * *

108 Accumulated Provision for Depreciation of Electric Utility Plant

* * * * *

C. Account 108 shall be subaccounted as follows

* * * * *

108.9 Accumulated Provision for Depreciation of Asset Retirement Costs

* * * * *

121 Nonutility Property

A. This account shall include the book cost of land, structure, and equipment or other tangible or intangible property owned by the utility, but used in utility service and not properly includible in Account 105, Electric Plant Held for Future Use. This account shall also include, where applicable, amounts recorded for asset retirement costs associated with nonutility plant.

* * * * *

124 Other Investments

A. This account shall include the book cost of investments in securities issued or assumed by nonassociated companies, investment advances to such companies, and any investments not accounted for elsewhere. This account shall also included unrealized holding gains and losses on trading and available-for-sale types of security investments. Include also the offsetting entry to the recording of amortization of discount or premium on interest bearing investments. (See Account 419, Interest and Dividend Income.)

* * * * *

125 Sinking Funds

This account shall include the amount of cash and book cost of investments held in sinking funds. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of investments. A separate account, with appropriate title, shall be kept for each sinking fund. Transfers from this account to special deposit accounts, may be as necessary for the purpose of paying matured sinking fund obligations, or obligations called for redemption but not presented, or the interest thereon.

126 Depreciation Fund

This account shall include the amount of cash and the book cost of investments which have been segregated in a special fund for the purpose of identifying such assets with the accumulated provisions for depreciation. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments.

128 Other Special Funds

This account shall include the amount of cash and book cost of investments which have been segregated in special funds for insurance, employee pensions, savings, relief, hospital, and other purposes not provided for elsewhere. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. A separate account, with appropriate title, shall be kept for each fund.

Note: Amounts deposited with a trustee under the terms of an irrevocable trust agreement for pensions or other employee benefits shall not be included in this account.

* * * * *

175 Derivative Instrument Assets

This account shall include the amounts paid for derivative instruments, and the change in the fair value hedges. Account 421, Miscellaneous Nonoperating Income, shall be credited or debited, as appropriate, with the corresponding amount of the change in the fair value of the derivative instrument.

176 Derivative Instrument Assets—Hedges

A. This account shall include the amounts paid for derivative instruments, and the change in the fair value of derivative instrument assets designated by the utility as cash flow or fair value hedges.

B. When a utility designates a derivative instrument asset as a cash flow hedge it will record the change in the fair value of the derivative instrument in this account with a concurrent charge to Account 209, Accumulated Other Comprehensive Income, with the effective portion of the gain or loss. The ineffective portion of the cash flow hedge shall be charged to the same income or expense account that will be used when the hedged item enters into the determination of net income.

C. When a utility designates a derivative instrument as a fair value hedge it shall record the change in the fair value of the derivative instrument in this account with a concurrent charge to a subaccount of the

asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge shall be charged to the same income or expense account that will be used when the hedged item enters into the determination of net income.

* * * * *

182.3 Other Regulatory Assets

* * * * *

B. The amounts included in this account are to be established by those charges which would have been included in net income, or accumulated other comprehensive income, determinations in the current period under the general requirements of the Uniform System of Accounts but for it being probable that such items will be included in a different period(s) for purposes of developing the rates that the utility is authorized to charge for its utility services. When specific identification of the particular source of a regulatory asset cannot be made, such as in plant phase-ins, rate moderation plans, or rate levelization plans, Account 407.4, Regulatory Credits, shall be credited. The amounts recorded in this account are generally to be charged, concurrently with the recovery of the amounts in rates, to the same account that would have been charged if included in income when incurred, except all regulatory assets established through the use of Account 407.4 shall be charged to Account 407.3, Regulatory Debits, concurrent with the recovery of the amounts in rates.

* * * * *

■ 9. Amend § 1767.19 as follows:

■ a. In the subject table, under *Margins and Equities,* add an entry for 209 to read as set forth below;

■ b. In the subject table, under *Long-Term Debt,* add an entry for 224.18 to read as set forth below;

■ c. Add a new entry for 209 Accumulated Other Comprehensive Income to read as set forth below;

■ d. In 224 Other Long-Term Debt, paragraph B. subject index, add an entry for subaccount 224.18 to read as set forth below;

■ e. Add 224.18 Other Long-Term Debt Grant Funds to read as set forth below:

■ f. In 229 Account Accumulated Provision for Rate Refunds, add an entry under Current and Accrued Liabilities to read as set forth below;

■ g. Add 230 Asset Retirement Obligations to read as set forth below;

■ h. Add 244 Derivative Instrument Liabilities to read as set forth below;

■ i. Add 245 Derivative Instrument Liabilities-Hedges to read as set forth below, and

■ j. Revise paragraph B. of 254 Other Regulatory Liabilities to read as set forth below.

The additions and revisions read as follows:

§ 1767.19 Liabilities and other credits.

* * * * *

Liabilities and Other Credits

Margins and Equities

* * * * *

209 Accumulated Other Comprehensive Income

* * * * *

Long-Term Debt

224.18 Other Long-Term Debt—Grant Funds

* * * * *

209 Accumulated Other Comprehensive Income

A. This account shall include revenues, expenses, gains, and losses that are properly includable in other comprehensive income during the period. Examples of other comprehensive income include foreign currency items, minimum pension liability adjustment, unrealized gains and losses on certain investments in debt and equity securities, and cash flow hedges. Records supporting the entries to this account shall be maintained so that the utility can furnish the amount of other comprehensive income for each item included in this account.

B. This account shall also be debited or credited, as appropriate, with amounts of accumulated other comprehensive income that have been included in the determination of net income during the period and in accumulated other comprehensive income in prior periods. Separate records for each category of items shall be maintained to identify the amount of the reclassification adjustments from accumulated other comprehensive income to earning made during the period.

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224 Other Long-Term Debt

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B. * * *

224.18 Other Long-Term Debt—Grant Funds

* * * * *

224.18 Other Long-Term Debt—Grant Funds

This account shall include the total amount of Rural Development grant funds awarded for rural economic development purposes, which are subject to repayment at the conclusion of the project. (See Sec. 1767.41, Interpretation 626, Rural Economic Development Loan and Grant Program.)

* * * * *

Current and Accrued Liabilities

* * * * *

230 Asset Retirement Obligations

A. This account shall include the amount of liabilities for the recognition of asset retirement obligations related to electric utility plant and nonutility plant that gives rise to the obligations. This account shall be credited for the amount of the liabilities for asset retirement obligations with amounts charged to the appropriate electric utility plant accounts or nonutility plant account to record the related asset retirement costs.

B. The utility shall charge the accretion expense to Account 411.10, Accretion Expense, for electric utility plant, Account 413, Expenses for Electric Plant Leased to Others, for electric plant leased to others, or Account 421, Miscellaneous Nonoperating Income, for nonutility plant, as appropriate, and credit Account 230, Asset Retirement Obligations.

C. This account shall be debited with amounts paid to settle the asset retirement obligations recorded herein.

D. The utility shall clear from this account any gains or losses resulting from the settlement of asset retirement obligations in accordance with the instruction prescribed in Sec. 1767.15(y).

* * * * *

244 Derivative Instrument Liabilities

This account shall include the change in the fair value of all derivative instrument liabilities not designated as cash flow or fair value hedges. Account 426, Other Deductions, shall be debited or credited as appropriate with the corresponding amount of the change in the fair value of the derivative instrument.

245 Derivative Instrument Liabilities—Hedges

A. This account shall include the change in the fair value of derivative instrument liabilities designated by the utility as cash flow or fair value hedges.

B. A utility shall record the change in the fair value of a derivative instrument liability related to a cash flow hedge in this account, with a concurrent charge to Account 209, Accumulated Other Comprehensive Income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge shall be charged to the same income or expense account that will be used when the hedged item enters into the determination of net income.

C. A utility shall record the change in the fair value of a derivative instrument liability related to a fair value hedge in this account, with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion or the fair value hedge shall be charged to the same income or expense account that will be used when the hedged item enters into the determination of net income.

* * * * *

254 Other Regulatory Liabilities

* * * * *

B. The amounts included in this account are to be established by those credits which would have been included in net income, or accumulated other comprehensive income, determinations in the current period under the general requirements of the Uniform System of Accounts but for it being probable that: (1) Such items will be included in a different period(s) for purposes of developing the rates that the utility is authorized to charge for its utility services; or (2) refunds to customers, not provided for in other accounts, will be required. When specific identification of the particular source of the regulatory liability cannot be made or when the liability arises from revenues collected

pursuant to tariffs on file at a regulatory agency, Account 407.3, Regulatory Debits, shall be debited. The amounts recorded in this account generally are to be credited to the same account that would have been credited if included in income when earned except: (1) All regulatory liabilities established through the use of Account 407.3 shall be credited to Account 407.4, Regulatory Credits; and (2) in the case of refunds, a cash account or other appropriate account should be credited when the obligation is satisfied.

* * * * *

■ 10. Amend 1767.20 as follows:
■ a. Revise the introductory text;
■ b. In the table of contents, under *Steam Production*, add an entry for 317;
■ c. In the table of contents, under *Nuclear Production*, add an entry for 326;
■ d. In the table of contents, under *Hydraulic Production*, add an entry for 337;
■ e. In the table of contents, under *Other Production*, add an entry for 347;
■ f. In the table of contents, under *Transmission Plant*, add an entry for 359.1;
■ g. In the table of contents, under *Distribution Plant*, add an entry for 374;
■ h. In the table of contents, add new title *Regional Transmission Market Operation Plant*, and entries for 380, 381, 382, 383, 384, 385, and 386;
■ i. In the table of contents, under *General Plant*, add an entry for 399.1;
■ j. Add a new entry for 317 Asset Retirement costs for Steam Production Plant;
■ k. Add a new entry for 326 Retirement Costs for Nuclear Production Plant;
■ l. Add a new entry for 337 Asset Retirement costs for Hydraulic Production Plant;
■ m. Add a new entry for 347 Asset Retirement Costs for Other Production Plant;
■ n. Add a new entry for subaccount 359.1 Asset Retirement Costs for Transmission Plant;
■ o. Add a new entry for 374 Asset Retirement Costs for Distribution Plant;
■ p. Under new account title *Regional Transmission Market Operation Plant*, add new entries for 380, 381, 382, 383, 384, 385, and 386;
■ q. Add a new entry for subaccount 399.1 Asset Retirement Costs for General Plant.

The revisions and additions read as follows:

§ 1767.20 Plant accounts

The plant accounts identified in this section shall be used by all Rural Development borrowers.

* * * * *

Production Plant

Steam Production

* * * * *

317 Asset Retirement Costs for Steam Production Plant

Nuclear Production

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326 Asset Retirement Costs for Nuclear Production Plant

Hydraulic Production

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337 Asset Retirement Costs for Hydraulic Production Plant

Other Production

* * * * *

347 Asset Retirement Costs for Other Production Plant

Transmission Plant

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359.1 Asset Retirement Costs for Transmission Plant

Distribution Plant

* * * * *

374 Asset Retirement Costs for Distribution Plant

Regional Transmission Market Operation Plant

380 Land and Land Rights

381 Structures and Improvements

382 Computer Hardware

383 Computer Software

384 Communication Equipment

385 Miscellaneous Regional Transmission and Market Operation Plant

386 Asset Retirement Costs for Regional Transmission and Market Operation Plant

General Plant

* * * * *

399.1 Asset Retirement Costs for General Plant

* * * * *

Production Plant

Steam Production

* * * * *

317 Asset Retirement Costs for Steam Production Plant

This account shall include asset retirement costs on plant included in the steam production function.

* * * * *

Nuclear Production

* * * * *

326 Asset Retirement Costs for Nuclear Production Plant

This account shall include asset retirement costs on plant included in the nuclear production function.

* * * * *

Hydraulic Production

* * * * *

337 Asset Retirement Costs for Hydraulic Production Plant

This account shall include asset retirement costs on plant included in the hydraulic production function.

* * * * *

Other Production

* * * * *

347 Asset Retirement Costs for Other Production Plant

This account shall include asset retirement costs on plant included in the other production function.

* * * * *

Transmission Plant

* * * * *

359.1 Asset Retirement Costs for Transmission Plant

This account shall include asset retirement costs on plant included in the transmission plant function.

* * * * *

Distribution Plant

374 Asset Retirement Costs for Distribution Plant

This account shall include asset retirement costs on plant included in the distribution plant function.

Regional Transmission and Market Operation Plant

380 Land and Land Rights

This account shall include the cost of land and land rights used in connection with regional transmission and market operations.

381 Structures and Improvements

This account shall include the cost in place of structures and improvement used for regional transmission and market operations.

382 Computer Hardware

This account shall include the cost of computer hardware and miscellaneous information technology equipment to provide scheduling, system control and dispatching, system planning, standards development, market monitoring, and market administration activities. Records shall be maintained identifying to the maximum extent practicable computer hardware owned and used for:
(1) Scheduling, system control and dispatching, (2) System planning and standards development, and (3) Market monitoring and market administration activities.

Items

1. Personal computers

2. Servers
3. Workstations
4. Energy Management System (EMS) hardware
5. Supervisory Control and Data Acquisition (SCADA) system hardware
6. Peripheral equipment
7. Networking components

383 Computer Software

This account shall include the cost of off-the-shelf and in-house developed software purchased and used to provide scheduling, system control and dispatching, system planning, standards development, market monitoring, and market administration activities. Records shall be maintained identifying to the maximum extent practicable the cost of software used for:

(1) Scheduling, system control and dispatching,

(2) System planning and standards development, and

(3) Market monitoring and market administration activities.

Items

1. Software licenses
2. User interface software
3. Modeling software
4. Database software
5. Tracking and monitoring software
6. Energy Management System (EMS) software
7. Supervisory Control and Data Acquisition (SCADA) system software
8. Evaluation and assessment system software
9. Operating, planning and transaction scheduling software
10. Reliability applications
11. Market application software

384 Communication Equipment

This account shall include the cost of communication equipment owned and used to acquire or share data and information used to control and dispatch the system.

Items

1. Fiber optic cable
2. Remote terminal units
3. Microwave towers
4. Global Positioning System (GPS) equipment
5. Servers
6. Workstations
7. Telephones

385 Miscellaneous Regional Transmission and Market Operation Plant

This account shall include the cost of regional transmission and market operation plant and equipment not provided for elsewhere.

386 Asset Retirement Costs for Regional Transmission and Market Operation Plant

This account shall include asset retirement costs on regional transmission and market operations plant and equipment.

* * * * *

General Plant

* * * * *

399.1 Asset Retirement Costs for General Plant

This account shall include asset retirement costs on plant included in the general plant function.

* * * * *

■ 11. Section 1767.21 is amended as follows:

■ a. Add account titles for 403.8, 403.9 and 411.10 to read as set forth below;

■ b. Add entries for 403.8 and 403.9 under 403 Depreciation Expense to read as set forth below;

■ c. Amend 411.6 by designating the current text as paragraph A. and adding paragraph B. to read as set forth below;

■ d. Amend 411.7 by designating the current text as paragraph A. and adding paragraph B. to read as set forth below; and

■ e. Add an entry for 411.10 to read as set forth below.

§ 1767.21 Operating Income.

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Utility Operating Income

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403.8 Depreciation Expense-Asset Retirement Costs

403.9 Depreciation Expense-Regional Transmission and Market Operation Plant

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411.10 Accretion Expense

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Utility Operating Income

* * * * *

403 Depreciation Expense

* * * * *

C. * * *

403.8 Depreciation Expense-Asset Retirement Costs

403.9 Depreciation Expense-Regional Transmission and Market Operation Plant

* * * * *

411.6 Gains From Disposition of Utility Plants

* * * * *

B. The utility shall record in this account gains resulting from the settlement of asset retirement obligations related to utility plant in accordance with the accounting prescribed in Sec. 1767.15(y).

411.7 Losses From Disposition of Utility Plant

* * * * *

B. The utility shall record in this account losses resulting from the settlement of asset retirement obligations related to utility plant in accordance with the accounting prescribed in Sec. 1767.15(y).

411.10 Accretion Expense

This account shall be charged for accretion expense on the liabilities associated with asset retirement obligations included in Account 230, Asset Retirement Obligations, relating to electric utility plant.

■ 12. Section 1767.22 is amended as follows:

■ a. Amend Account 421, Miscellaneous Nonoperating Income, by adding items (4) through (6) to read as set forth below;

■ b. Amend Account 426.5, Other Deductions, by adding item (6) to read as set forth below.

§ 1767.22 Other income and deductions.

* * * * *

421 Miscellaneous Nonoperating Income

* * * * *

4. This account shall include the accretion expense on the liability for an asset retirement obligation included in Account 230, Asset Retirement Obligations, related to nonutility plant.

5. This account shall include the depreciation expense for asset retirement costs related to nonutility plant.

6. The utility shall record in this account gains resulting from the settlement of asset retirement obligations related to nonutility plant in accordance with the accounting prescribed in § 1767.15(y).

* * * * *

426.5 Other Deductions

* * * * *

6. The utility shall record in this account losses resulting from the settlement of asset retirement obligations related to nonutility plant in accordance with the accounting prescribed in § 1767.15(y).

■ 13. Amend § 1767.23 by revising Account 432 to read as follows:

§ 1767.23 Interest charges.

* * * * *

432 Allowance for Borrowed Funds Used During Construction—Credit

This account shall include concurrent credits for allowance for borrowed funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in § 1767.16(c)(17).

Note: This account shall not be recorded in Account 427.3, Interest Charged to Construction—Credit.

■ 14. Amend § 1767.26 as follows:

■ a. Add 456.1, 457.1, and 457.2 to the subject table to read as set forth below;

■ b. Amend 456, Other Electric Revenues, by removing paragraph 5; and redesignating paragraph 6 as 5; and

■ c. Add entries for 456.1, 457.1 and 457.2 to read as set forth below. The additions read as follows:

§ 1767.26 Operating revenue.

* * * * *

Operating Revenue

Sales of Electricity

* * * * *

456.1 Revenues from Transmission of Electricity of Others
457.1 Regional Transmission Service Revenues
457.2 Miscellaneous Revenue

* * * * *

456.1 Revenues From Transmission of Electricity of Others

This account shall include revenues from transmission of electricity of others over transmission facilities of the utility.

457.1 Regional Transmission Service Revenues

This account shall include revenues derived from providing scheduling, system control and dispatching services. Include also in this account reimbursements for system planning, standards development, and market monitoring and market compliance activities. Records shall be maintained so as to show: (1) The services supplied and revenues received from each customer and (2) the amounts billed by tariff or specified rates.

457.2 Miscellaneous Revenues

This account shall include revenues and reimbursements for costs incurred by regional transmission service providers not provided for elsewhere. Records shall be maintained so as to show: (1) The services supplied and revenues received from each customer, and (2) the amounts billed by tariff or specified rates.

■ 15. Amend § 1767.27 as follows:

■ a. Add new accounts 561.1 through 561.8 to the subject index immediately following entry 560, Operations Supervision and Engineering, to read as set forth below;

■ b. Add new accounts 569.1 through 569.4 to the subject index immediately following entry 569, Maintenance of Structures, to read as set forth below;

■ c. Add new accounts 575.1 through 575.8 to the subject index under a new account title *Regional Market Expense (Operations)* immediately following entry 573, Maintenance of Miscellaneous Transmission Plant; to read as set forth below;

■ d. Add new accounts 576.1 through 576.5 to the subject index under a new account title Regional Market Expense (Maintenance) immediately following entry 575.8, Rents, to read as set forth below;

■ e. Amend 555 Purchased Power by adding a note following paragraph B. to read as set forth below;

■ f. Amend 556 System Control Load Dispatching by revising the introductory text to read as set forth below;

■ g. Remove Account 561 Load Dispatching;

■ h. Add new accounts to descriptions for 561.1 through 561.8 to read as set forth below;

■ i. Add new accounts and descriptions for 569.1 through 569.4 to read as set forth below;

■ j. Add new accounts and descriptions for 575.1 through 575.8 to read as set forth below; and

■ k. Add new accounts and descriptions for 576.1 through 576.5 to read as set forth below.

The additions and revisions read as follows:

§ 1767.27 Operation and maintenance expenses.

* * * * *

Transmission Expenses

(Operations)

* * * * *

561.1 Load Dispatch-Reliability
561.2 Load Dispatch-Monitor and Operate Transmission System
561.3 Load Dispatch-Transmission Service and Scheduling
561.4 Scheduling, System Control and Dispatching Services
561.5 Reliability, Planning and Standards Development
561.6 Transmission Service Studies
561.7 Generation Interconnection Studies
561.8 Reliability Planning and Standards Development Services

* * * * *

(Maintenance)

* * * * *

569.1 Maintenance of Computer Hardware
569.2 Maintenance of Computer Software
569.3 Maintenance of Communication Equipment
569.4 Maintenance of Miscellaneous Regional Transmission Plant

* * * * *

Regional Market Expenses

(Operation)

575.1 Operation Supervision
575.2 Day-Ahead and Real-Time Market Administration
575.3 Transmission Rights Market Administration
575.4 Capacity Market Administration
575.5 Ancillary Services Market Administration
575.6 Market Monitoring and Compliance
575.7 Market Administration, Monitoring and Compliance Services
575.8 Rents

(Maintenance)

576.1 Maintenance of Structures and Improvements
576.2 Maintenance of Computer Hardware
576.3 Maintenance of Computer Software
576.4 Maintenance of Communication Equipment
576.5 Maintenance of Miscellaneous Market Operation Plant

* * * * *

555 Purchased Power

* * * * *

Note: The records supporting this account shall provide information pertaining to the purchase of power from renewable energy sources.

556 System Control and Load Dispatching

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, and expenses incurred in load dispatching activities for system control. Utilities having an interconnected electric system or operating under a central authority which controls the production and dispatching of electricity may apportion these costs to this account and transmission expense Account 561.1 through 561.4, and Account 581, Load Dispatching—Distribution.

* * * * *

561.1 Load Dispatch—Reliability

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, materials used, and expenses incurred by a regional transmission service provider or other transmission provider to manage the reliability coordination function as specified by the North American Electric Reliability Council (NERC) and individual reliability organizations. These activities shall include performing current and next day reliability analysis. This account shall include the costs incurred to calculate load forecasts, and performing contingency analysis.

561.2 Load Dispatch—Monitor and Operate Transmission System

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, materials used, and expenses incurred by a regional transmission service provider or other transmission provider to monitor, assess and operate the power system and individual transmission facilities in real-time to maintain safe and reliable operation of the transmission system. This account shall also include the expense incurred to manage transmission facilities to maintain system reliability and to monitor real-time flows and direct actions according to regional plans and tariffs if necessary.

Items

1. Receive and analyze outage requests
2. Reschedule outage plans
3. Monitor solution quality field data values, providing model updates to NERC and coordinating network model changes across all systems
4. Conduct operating training related to NERC Certification
5. Monitor generation resources and communicate expected dispatch actions
6. Ensure ancillary service requirements are met
7. Directing switching
8. Controlling system voltages
9. Obtaining reports on the weather and special events
10. Preparing operating reports and data for billing and budget purposes

561.3 Load Dispatch—Transmission Service and Scheduling

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, materials used, and expenses incurred by a regional transmission service provider or other transmission provider to process hourly, daily, weekly and monthly transmission service requests using an automated system such as an Open Access Same-Time Information System (OASIS). It shall include the expenses incurred to operate the automated transmission service request system and to monitor the status of all scheduled energy transactions.

561.4 Scheduling, System Control and Dispatching Services

This account shall include the costs billed to the transmission owner, load serving entity or generator for scheduling, system control and dispatching service. Include in this account service billings for system control to maintain the reliability of the transmission area in accordance with reliability standards, maintaining defined voltage profiles, and monitoring operations of the transmission facilities.

561.5 Reliability, Planning and Standards Development

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, materials used, and expenses incurred for the system planning of the interconnected bulk electric transmission system within a planning authority area.

Items

1. Developing and maintaining transmission system models to evaluate transmission system performance.
2. Maintaining and applying methodologies and tools for the analysis and simulation of the transmission systems for the assessment and development of transmission expansion plans.
3. Assessing, developing and documenting transmission expansion plans.
4. Maintaining transmission system models (steady-state, dynamics, and short circuit).
5. Collecting transmission information and transmission facility characteristics and ratings.
6. Notifying participants of any planned transmission changes that may impact their facilities.
7. Developing and reporting on transmission expansion plans for assessment and compliance with reliability standards.
8. Developing reliability standards for the planning and operation of the interconnected bulk electric transmission systems that serve the United States, Canada and Mexico.
9. Developing criteria and certification procedures for reliability authorities, transmission operators and others.
10. Outside services employed.

Note: The cost of supervision, customer records and collection expenses, administrative and general salaries, regulatory commission expenses, general advertising, and rents shall be charged to the customer accounts, service, administrative and general expense accounts contained in the Uniform System of Accounts.

561.6 Transmission Service Studies

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, materials used, and expenses incurred to conduct generation interconnection studies for proposed interconnections with the transmission system. Detailed records shall be maintained for each study undertaken and all reimbursements received for conducting such a study.

561.7 Generation Interconnection Studies

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, materials used, and expenses incurred to conduct generation interconnection studies for proposed interconnections with the transmission system. Detailed records shall be maintained for each study undertaken and all reimbursements received for conducting such a study.

561.8 Reliability Planning and Standards Development Services

This account shall include the costs billed to the transmission owner, load serving entity, or generator for system planning of the interconnected bulk electric transmission service provider for system reliability and resource panning to develop long-term strategies to meet customer demand and energy requirements. This account shall also include fees and expenses for outside services incurred by the regional transmission service provider and billed to the load serving entity, transmission owner or generator.

* * * * *

569.1 Maintenance of Computer Hardware

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, materials used and expenses incurred in the maintenance of computer hardware serving the transmission function.

569.2 Maintenance of Computer Software

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, materials used and expenses incurred for annual computer software license renewals, annual software update services and the cost of ongoing support for software products serving the transmission function.

Items

1. Telephone Support
2. Onsite support
3. Software updates and minor revisions

569.3 Maintenance of Communication Equipment

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, materials used and expenses incurred in the maintenance of communication equipment serving the transmission function.

569.4 Maintenance of Miscellaneous Regional Transmission Plant

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, materials used and expenses incurred in the maintenance of miscellaneous regional transmission plant serving the transmission function.

* * * * *

Regional Market Expenses

(Operational)

575.1 Operation Supervision

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred in the general supervision and direction of the regional energy markets.

575.2 Day-Ahead and Real-Time Market Administration

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred to facilitate the Day-Ahead and Real-Time markets. This account shall also include the costs incurred to manage the real-time deployment of resources to meet generation needs and to provide capacity adequacy verification. Include in this account the costs incurred to maintain related sections of the tariff, market rules, operating procedures, and standards and coordinating with neighboring areas.

Items

1. Consultant fees and expenses
2. System record and report forms
3. Meals, traveling and incidental expenses

Note: The cost of supervision, customer records and collection expenses, administrative and general salaries, regulatory commission expenses, general advertising, and rents shall be charged to the customer accounts, service, administrative and general expense accounts contained in the Uniform System of Accounts.

575.3 Transmission Rights Market Administration

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred to manage the allocation and auction of transmission rights.

575.4 Capacity Market Administration

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred to manage the allocation of capacity rights.

575.5 Ancillary Services Market Administration

This account shall include the cost of labor, employee pensions and benefits, social

security and other payroll taxes, injuries and damages, and expenses incurred to manage all other ancillary services market functions

575.6 Market Monitoring and Compliance

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred to review market data and operational decisions for compliance with market rules. It shall also include the costs incurred to interface with external market monitors.

575.7 Market Administration, Monitoring and Compliance Services

This account shall include the cost billed to the transmission owner, load serving entity or generator for market administration, monitoring and compliance services.

575.8 Rents

This account shall include all rents of property of others used, occupied, or operated in connection with market administration and monitoring. (See Sec. 1767.17(c).) (Maintenance)

576.1 Maintenance of Structures and Improvements

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred in the maintenance of structures used in market administration and monitoring. (See Sec. 1767.17(b).)

576.2 Maintenance of Computer Hardware

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred in the maintenance of computer hardware used in market administration and monitoring.

576.3 Maintenance of Computer Software

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred for annual computer software license renewals, annual software update services and the cost of ongoing support for software products used in market administration and monitoring.

Items

1. Telephone support
2. Onsite support
3. Software updates and minor revisions

576.4 Maintenance of Communication Equipment

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred in the maintenance of communication equipment used in market administration and monitoring.

576.5 Maintenance of Miscellaneous Market Operation Plant

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred in the maintenance of miscellaneous market operation plant used in market administration and monitoring.

* * * * *

■ 16. Amend § 1767.41, as follows:
■ a. In the Numerical Index, add the entry for 633 in numerical order to read as set forth:
■ b. In the subject matter Index, add Cushion of Credit items in alphabetical order to read as set forth below;
■ c. Revise 119 Special Equipment to read as set forth below;
■ d. Amend 136 Storm Damage by removing paragraph d. and revising paragraphs b. and c. and the undesignated paragraph before the table to read as set forth below;
■ e. Amend 404 Consolidate Financial Statement by revising the undesignated concluding paragraph to read as set forth below;
■ f. Revise 626 Rural Economic Development Loan and Grant Program to read as set forth below;
■ g. Add a new description for 633 for Cushion of Credit to read as set forth below.

The additions and revisions read as follows:

§ 1767.41 Accounting methods and procedure required of all RUS borrowers.

* * * * *

Number	Title
633	Cushion of Credit.

SUBJECT MATTER INDEX

	Number
* * * * *	
C	
* * * * *	
Cushion of Credit	633
* * * * *	

* * * * *

119 Special Equipment

Special Equipment items are classified as such because they are continually being moved from one location to another due to load changes and maintenance practices. The USoA provides accounting that differs from that used for other types of materials. The cost, new, of special equipment items shall be capitalized at the time of purchase; it shall not be charged to Account 154 as is the case with other materials. The first installation cost, as well as all incidental costs necessary to prepare the equipment for use, shall be capitalized with the material upon purchase. All subsequent costs of removing, resetting, changing, renewing oil, and repairing constitute operations and maintenance expenses. The capitalized cost of special equipment items, including the first installation, shall be removed from the electric plant accounts only when the items are abandoned or retired from the system.

Meters, line-type transformers, oil circuit reclosers, sectionalizers, current and potential transformers, meter sockets, and other metering equipment listed in Account 370, Meters, as well as pole-type and underground voltage regulators in Account 368, Line Transformers, are considered to be special equipment items. Similarly, load control receivers (load control switches) recorded in Account 371, Installations on Customers' Premises, are considered to be items of special equipment. (*See* Interpretation No. 118.) Transformers, voltage regulators, metering equipment, and current and potential transformers for substations are not.

Special equipment items which are classified as nonusable shall be segregated in the warehouse and retired from service. The Summary of Special Equipment Costs shall be retitled Summary of Special Equipment Costs Retired and used for this purpose. A journal entry reflecting this information shall be prepared and posted to the books. Since loan funds for special equipment, including first installation costs, are approved for advance by the Rural Development upon receipt of the borrower's written estimate of funds required, and not on the basis of an Inventory of Work Orders, it is improper to take a credit for any salvage involved in the retirement of special equipment on the Inventory of Work Orders.

Electric borrowers that wish to receive a waiver from the special equipment accounting requirements should submit a letter request to Rural Development. In order to expedite these requests the letter to Rural Development should state that the borrower will adhere to the following requirements to account for special equipment using the work order procedure rather than the special equipment accounting procedures prescribed by Rural Development:

1. New purchases of special equipment items are to be charged to Account 154, Materials and Supplies, upon purchase.
2. Labor, material and overhead costs associated with the initial installation and all subsequent installations of special equipment are recorded on construction work orders and charged to the appropriate plant accounts upon closeout of the construction work order.
3. Labor and overhead costs associated with the removal of special equipment items, whether the items removed are placed in inventory or permanently retired and disposed of, are recorded on retirement work orders and charged or credited to the depreciation reserve account upon closeout of the retirement work order.
4. The special equipment items retired and salvaged for reuse are returned to the materials and supplies account at the average material cost in the materials and supplies account and credited to the depreciation reserve upon closeout of the retirement work order.

In addition to recognition of the requirements noted above, the borrower

should indicate how it plans to account for the items of special equipment that have been charged to the plant accounts but not installed (in inventory). Two acceptable methods to account for this equipment are: (1) Leave the equipment in the plant accounts until the inventory is depleted and charge only new purchases to materials and supplies, or (2) credit the plant accounts for the installed cost of the equipment in inventory, charge the equipment cost to materials and supplies, and charge the installation cost to the appropriate operations expense account. Also, under the second method, the borrower must submit a ''negative'' special equipment summary to Rural Development to return to the balance in reserve for the current loan the installed cost of special equipment in inventory on the date of transition.

* * * * *

136 Storm Damage

As a result of recent hurricane, flood, and ice storm damage, Rural Development has received several inquiries concerning the proper accounting for storm damage costs and the associated funds received from the Federal Emergency Management Administration (FEMA).

Storm damage costs should be accounted for under the work order procedure. Units of property destroyed or otherwise removed from service must be reflected on retirement work orders and units of property installed must be shown on construction work orders. To ensure that the accounting for construction and retirement costs is as accurate as possible, an effort should be made to accurately accumulate material, labor, and overhead costs. Even when extreme care has been exercised, however, it may still be necessary to use estimates to develop the appropriate cost figures.

When a storm occurs, a utility typically incurs a large retirement loss, all or a part of which should be charged to the accumulated provision for depreciation. Storm damage costs over and above construction and retirement costs represent maintenance expense. Maintenance costs include the costs of resagging lines, straightening poles, and replacing minor items of property. When extensive damage has occurred, the need to restore the property to an operating condition without delay usually results in excessive costs being incurred. Standard property unit costs may be used as a guide in determining the amount to be capitalized. It should be noted, however, that when standard property unit costs are used, all excess costs are charged to maintenance expense.

Because of the storm's destruction, property is retired prematurely and as a result, extraordinary retirement losses occur. When such extraordinary losses occur, they should be recorded in the year in which the losses are incurred. If the recording of such losses will materially distort the income statement, such losses may be charged to Account 435, Extraordinary Deductions. These costs may be deferred and amortized to future periods only if the provisions of Statement of Financial Accounting Standards No. 71, Accounting for the Effects of Certain Types of Regulation (Statement No. 71), are applied. Under the provisions of Statement No. 71, a utility may defer certain costs, provided such costs are included in the utility's rate base and recovered through future rates. If an Rural Development borrower elects to apply the provisions of Statement No. 71, Rural Development approval is required. To obtain Rural Development approval, a borrower must submit:

a. A detailed description of the plan including the nature of the expense item, the amount of the deferral, the specific time period for rate recovery, and justifying support for the time period selected;

b. The accounting journal entries being used by the cooperative to record the expense deferral and amortization of deferred costs; and

c. A copy of the state Commission order authorizing recovery of the deferred costs through future rates, or in the absence of commission jurisdiction, a resolution from the cooperative's board of directors authorizing such recovery.

To assist in the restoration of the damaged facilities, the Federal government often provides assistance through Federal Emergency Management Agency (FEMA).

Under current FEMA procedures, FEMA provides funds for the restoration of facilities based upon the cost estimates submitted by the entity requesting assistance. If the FEMA grant is for less than 100 percent of the cost estimates, and does not specify offset expenses, thereby providing the borrower with the maximum opportunity to utilize Rural Development Utilities Program loan funds to finance capitalizable costs. When the funds are received, they should be accounted for by first applying the funds received as a credit to maintenance expense and administrative and general costs. Any remaining funds should then be applied as a credit to construction and retirement costs.

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404 Consolidated Financial Statements

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Although Statement No. 94 requires the consolidation of majority-owned subsidiaries, Forms 7 and 12 must be prepared on a basis consistent with the equity method of accounting for investments. For distribution borrowers, this requires that the investment be shown on Form 7 in Part C, Balance Sheet, on line 7, Investments in Subsidiary Companies, or line 9, Investments in Associated Organizations—Other—General Funds, as appropriate. The result of operation is shown in Part A, Statement of Operations, on line 23, Income (Loss) from Equity Investments. For generation and transmission borrowers, the investments should be shown on Form 12, in Section C, Balance Sheet, on Line 7, Investments in Subsidiary Companies, or Line 9, Investments in Associated Organizations—Other—General Funds, as appropriate. The result of operations should be shown in Section A, Statement of Operations, on line 30, Income (Loss) from Equity Investments.

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626 Rural Economic Development Loan and Grant Program

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On December 21, 1987, Section 313, Cushion of Credits Payments Program, was added to the Rural Electrification Act. Section 313 establishes a Rural Economic Development Subaccount and authorizes the Administrator of the Rural Utilities Service to provide zero interest loans or grants to RE Act borrowers for the purpose of promoting rural economic development and job creation projects.

Subpart B, Rural Economic Development Loan and Grant Program, 7 CFR Part 1703, sets forth the policies and procedures relating to the zero interest loan program and for approving and administering grants. The accounting journal entries required to record the transactions associated with a rural economic development loan are as follows:

Dr. 224.17, RUS Notes Executed—Economic Development—Debit
Cr. 224.16, Long-Term Debt—RUS Economic Development Notes Executed
To record the contractual obligation to RUS for the Economic Development Notes.

Dr. 131.12, Cash—General—Economic Development Funds
Cr. 224.17, RUS Notes Executed—Economic Development—Debit
To record the receipt of the economic development loan funds.

Dr. 123, Investment in Associated Organizations or
Dr. 124, Other Investments
Cr. 131.12, Cash—General—Economic Development Funds
To record the disbursement of Economic development loan funds to the project.

Dr. 131.1, Cash—General Funds
Cr. 421, Miscellaneous Nonoperating Income
To record payment received from the project for loan servicing charges.

Dr. 171, Interest and Dividends Receivable
Cr. 419, Interest and Dividend Income
To record the interest earned on the investment of rural economic development loan funds.

Dr. 426.1, Donations or
Dr. 426.5, Other Deductions
Cr. 131.1, Cash—General Funds
To record the payment of interest earned in excess of $500.00 on the investment of rural economic development loan funds.

Note: Interest earned in excess of $500.00 must be used for the rural economic development project for which the loan funds were received or returned to RUS.

Dr. 131.12, Cash—General—Economic Development Funds
Cr. 123, Investment in Associated Organizations or
Cr. 124, Other Investments
To record receipt of the repayment, by the project, of economic development loan funds.

Dr. 426.5, Other Deductions
Cr. 123, Investment in Associated Organizations or
Cr. 124, Other Investments
To record the default, by a project, of economic development loan funds.

Dr. 224.16, Long-Term Debt—RUS Economic Development Notes Executed

Cr. 131.12, Cash—General—Economic Development Funds

To record the repayment, to RUS, of the economic development loan funds.

The accounting journal entries required to record the transactions associated with a rural economic development grant are as follows:

Dr. 131.13, Cash—General—Economic Development Grant Funds

Cr. 224.18, Other Long-Term Debt—Grant Funds;

Cr. 208, Donated Capital; or

Cr. 421, Miscellaneous Nonoperating Income

To record grant funds disbursed by RUS. If the grant agreement requires repayment of the funds upon termination of the revolving loan program, Account 224.18 should be credited. If the grant agreement states that there is absolutely no obligation for repayment upon termination of the revolving loan program, the funds should be accounted for as a permanent infusion of capital by crediting Account 208. If, however, the grant agreement is silent as to the final disposition of the grant funds, Account 421 should be credited.

Dr. 123.3, Investment in Associated Organizations—Federal Economic Development Loans

Cr. 131.13, Cash—General—Economic Development Grant Funds

To record advances of Federal funds to associated organizations for authorized rural economic development projects.

Dr. 124.1, Other Investments—Federal Economic Development Loans

Cr. 131.13, Cash—General—Economic Development Grant Funds

To record advances of Federal funds to nonassociated organizations for authorized rural economic development projects.

Dr. 171, Interest and Dividends Receivable

Cr. 419, Interest and Dividend Income

To record the accrual of interest on loans made to associated and nonassociated organizations with Federal funds for authorized rural economic development projects.

Dr. 131.14, Cash—General—Economic Development Non-Federal Revolving Funds

Cr. 123.3, Investment in Associated Organizations—Federal Economic Development Loans or

Cr. 124.1, Other Investments—Federal Economic Development Loans

To record repayment of loans made with Federal funds.

Dr. 123.4, Investment in Associated Organizations—Non-Federal Economic Development Loans

Cr. 131.14, Cash—General—Economic Development Non-Federal Revolving Funds

To record advances of non-Federal funds to associated organizations for authorized rural economic development projects.

Dr. 124.2, Other Investments—Non-Federal Economic Development Loans

Cr. 131.14, Cash—General—Economic Development Non-Federal Revolving Funds

To record advances of non-Federal funds to nonassociated organizations for authorized rural economic development projects.

Dr. 171, Interest and Dividends Receivable

Cr. 419, Interest and Dividend Income

To record the accrual of interest on loans made to associated and nonassociated organizations with non-Federal funds for authorized rural economic development projects.

Dr. 131.14, Cash—General—Economic Development Non-Federal RevolvingFunds

Cr. 123.4, Investment in Associated Organizations—Non-Federal Economic Development Loans or

Cr. 124.2, Other Investments—Non-Federal Economic DevelopmentLoans

To record repayment of loans made with non-Federal funds.

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633 Cushion of Credit

On December 21, 1987, Section 313, Cushion of Credits Payments Program, was added to the Rural Electrification Act. Cushion of credit regulations are located in The Code of Federal Regulations (CFR) 7 CFR part 1785. A cushion of credit payment is a voluntary unscheduled payment by a borrower in excess of amounts due and payable. A cushion of credit account is automatically established by Rural Development for each borrower who makes a payment after October 1, 1987, in excess of amounts then due on a Rural Development note. Payments received in the month in which an installment is due will be applied to the installment due. However, if the regular installment payment is received at a later date in the month, the first payment received will be applied retroactively to the cushion of credit account and the second will be applied to the installment due. By law, cushion of credit accounts earn five per cent interest annually, accrued daily and posted quarterly. Although the interest earned will appear as a reduction in the interest billed on the borrower's Rural Development notes and will be separately shown on Form 694, Statement of Interest and Principal Due, interest billed must be adjusted by adding back the interest earned while principal is reduced by the amount of the interest earned before recording the debt payment. Below is an example of the adjustment required:

	As billed	Adjustment	Adjusted
Payment Billed	$1,000		$1,000
Principal	800	−$50	750
Interest	*200	50	250

*Includes reduction of $50 for interest earned on cushion of credit account.

Cushion of credit is intended to enable the borrower to deposit funds and have those funds available to make scheduled payments (or installments) only. A borrower may not have more cushion of credit funds, including accrued interest, than their entire Rural Development debt which includes loans made in Rural Electric and Telephone (RET) and Federal Financing Bank (FFB). If a borrower makes less than or no payment when their billing invoice is due, cushion of credit will automatically add to or make their payment systematically for them.

Cushion of credit is not available to use for prepayment of loan accounts before maturity except for the following situations:

1. The total amount of cushion of credit principal with accrued interest equals the borrower's total debt

2. The borrower intends to prepay all remaining debt using a combination of payment with all cushion of credit funds available.

Accounting Requirements

All payments made to a cushion of credit account should be recorded as follows:

Dr. 224.6, Advance Payments Unapplied—Long-Term Debt—Debit

Cr. 131.1, Cash—General

All interest earned on the balance of funds in the account should be recorded as follows:

Dr. 224.6, Advance Payments Unapplied—Long-Term Debt—Debit

Cr. 419, Interest and Dividend Income

Reporting Requirements

Previously, Rural Development required that the balance in the cushion of credit account be reported, on the Form 7, Financial and Statistical Report, as a reduction of the Rural Development long-term debt balance. On January 15, 2003, Rural Development issued letter guidance permitting a proportionate share of the cushion of credit balance be reported as a reduction in Current Maturities Long-Term Debt. Additionally, beginning with calendar year 2006 submissions, Form 7 has been revised to include a separate line for cushion of credit balances within the long-term debt section of Part C.

For purposes of the audited financial statements, presentation of the balance of the cushion of credit account as a long-term investment is an acceptable alternative to Rural Development.

17. Add Subpart D to read as follows:

Subpart D—Preservation of Records

Sec.

1767.66 Purpose.

1767.67 General.

1767.68 Designation of a supervisory official.

1767.69 Index of records.

1767.70 Record storage media.

1767.71 Periods of retention.
1767.72–1767.85 [Reserved]

Subpart D—Preservation of Records

§ 1767.66 Purpose.

This subpart establishes policies and procedures for the effective preservation and efficient maintenance of financial records of Electric borrowers.

§ 1767.67 General.

(a) Rural Development endorses the guidelines as described by the Federal Energy Regulatory Commission's (FERC) ''Regulations to Govern the Preservation of Records of Public Utilities and Licensees.'' The FERC guidelines can be found in 18 CFR part 125.

(b) The regulations prescribed in this part apply to all books of account, contracts, records, memoranda, documents, papers, and correspondence prepared by or on behalf of the borrower as well as those which come into its possession in connection with the acquisition of property by purchase, consolidation, merger, etc.

(c) The regulations prescribed in this part shall not be construed as excusing compliance with any other lawful requirements for the preservation of records.

§ 1767.68 Designation of a supervisory official.

Each borrower shall designate one or more officials to supervise the preservation of its records.

§ 1767.69 Index of records.

(a) Each borrower shall maintain a master index of records. The master index shall identify the records retained, the related retention period, and the locations where the records are maintained. The master index shall be subject to review by Rural Development and Rural Development shall reserve the right to add records, or lengthen retention periods upon finding that retention periods may be insufficient for its purposes.

(b) At each office where records are kept or stored the borrower shall arrange, file, and index the records currently at that site so that they may be readily identified and made available to representatives of Rural Development.

§ 1767.70 Record storage media.

The media used to capture and store the data will play an important part of each Rural Development borrower. Each borrower has the flexibility to select its own storage media. The following are required:

(a) The storage media shall have a life expectancy at least equal to the applicable retention period provided for in the master index of records, unless there is a quality transfer from one media to another with no loss of data. Each transfer of data from one media to another shall be verified for accuracy and documented.

(b) Each borrower shall implement internal control procedures that assure the reliability of, and ready access to, data stored on machine-readable media. The borrower's internal control procedures shall be documented by a responsible supervisory official.

(c) Records shall be indexed and retained in such a manner that they are easily accessible.

(d) The borrower shall have the hardware and software available to locate, identify, and reproduce the records in readable form without loss of clarity.

(e) At the expiration of the retention period, the borrower may use any appropriate method to destroy records.

(f) When any records are lost or destroyed before the expiration of the retention period set forth in the master index, a certified statement shall be added to the master index listing, as far as may be determined, the records lost or destroyed and describing the circumstances of the premature loss or destruction.

§ 1767.71 Periods of retention.

(a) Records of Rural Development borrowers of a kind not listed in the FERC regulations should be governed by those applicable to the closest similar records. Financial requirement and expenditure statements, which are not specifically covered by FERC regulations, are recommended to be kept for one year after the ''as of date'' of Rural Development's loan fund and accounting review.

(b) Consumer accounts' records should be kept for those years for which patronage capital has not been allocated.

(c) Records supporting construction financed by Rural Development shall be retained until audited and approved by Rural Development.

(d) Records related to plant in service must be retained until the facilities are permanently removed from utility service, all removal and restoration activities are completed, and all costs are retired from the accounting records unless accounting adjustments resulting from reclassification and original costs studies have been approved by Rural Development or other regulatory body having jurisdiction.

(e) Life and mortality study data for depreciation purposes must be retained for 25 years or for 10 years after plant is retired, whichever is longer.

§ 1767.72–1767.85 [Reserved]

Dated: April 7, 2008.

James M. Andrew,

Administrator, Rural Utilities Service.

[FR Doc. E8–11264 Filed 5–23–08; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket No. APHIS–2006–0036]

RIN 0579–AC42

Exotic Newcastle Disease; Quarantine Restrictions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are making several changes to the exotic Newcastle disease domestic quarantine regulations, including adding an option for the movement of pet birds; adding restrictions on the interstate movement of live ratites out of quarantined areas; harmonizing our domestic and import regulations regarding the movement of dressed carcasses of dead birds and dead poultry; providing for the use of alternative procedures for treating manure and litter and for composting; and adding an additional surveillance period after the conditions for removing quarantine are met before quarantine is removed. We concluded that these changes are necessary based on our experiences during the eradication programs for the 2002–2003 outbreaks of exotic Newcastle disease in California, Arizona, Nevada, and Texas. In the event of an exotic Newcastle disease outbreak, these changes will help to ensure that exotic Newcastle disease does not spread from quarantined areas and that exotic Newcastle disease is eradicated within quarantined areas.

DATES: *Effective Date:* June 26, 2008.

FOR FURTHER INFORMATION CONTACT: Dr. Glen Garris, Director, National Veterinary Stockpile, National Center for Animal Health Emergency Management, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737–1231; (301) 734–8073.

SUPPLEMENTARY INFORMATION:

Background

Exotic Newcastle disease (END) is a contagious and fatal viral disease affecting the respiratory, nervous, and

digestive systems of birds and poultry. END is so virulent that many birds and poultry die without showing any clinical signs. A death rate of almost 100 percent can occur in unvaccinated poultry flocks. END can infect and cause death even in vaccinated poultry.

The regulations in ''Subpart A—Exotic Newcastle Disease (END)'' (9 CFR 82.1 through 82.16, referred to below as the regulations) were established to prevent the spread of END in the United States in the event of an outbreak. These regulations specify the conditions under which certain articles, including live birds and live poultry, dead birds and dead poultry, manure and litter, eggs other than hatching eggs, hatching eggs, and vehicles and conveyances, may be moved out of areas listed in § 82.3 as quarantined for END.

On March 27, 2006, we published in the **Federal Register** (71 FR 15047–15059, Docket No. APHIS–2006–0036) a proposal [1] to amend the regulations by adding an option for the movement of pet birds; adding restrictions on the interstate movement of live ratites out of quarantined areas; harmonizing the domestic and foreign regulations regarding the movement of dressed carcasses of dead birds and dead poultry, including one change to the importation regulations; providing for the use of alternative procedures for treating manure and litter and for composting; and adding an additional surveillance period after the conditions for removing quarantine are met before quarantine is removed.

The changes we proposed were based on experience we gained during our most recent eradication effort for END. Between November 21, 2002, and September 16, 2003, areas of the States of California, Arizona, Nevada, New Mexico, and Texas were quarantined due to the presence of END. In order to make better decisions on how to eradicate END from those areas, we completed several risk assessments and epidemiological investigations in the context of our activities under the regulations. The experience we gained during those outbreaks in enforcing the regulations and conducting the risk assessments and epidemiological investigations informed the proposed rule. (The risk assessments are available from the person listed under **FOR FURTHER INFORMATION CONTACT**.)

We solicited comments concerning our proposal for 60 days ending May 26, 2006. We received seven comments by that date. They were from producers and private citizens. They are discussed below by topic.

Other Live Birds, Including Ratites

The regulations in § 82.5(b) provide that birds other than pet birds and poultry not known to be infected with or exposed to END are allowed to be moved interstate from an area quarantined for END only if the following conditions are met:

- They are accompanied by a permit;
- They are covered in such a way as to prevent feathers and other debris from blowing or falling off the means of conveyance;
- They are moved in a means of conveyance either under official seal or are accompanied by a Federal representative;
- They are not unloaded until their arrival at their destination listed on the permit, except for emergencies; and
- The permit is presented upon arrival at the destination and copies of the permit are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of arrival.

Birds other than poultry are required to be moved to a site approved by the Administrator. Poultry are required to be moved to a recognized slaughtering establishment and must be slaughtered within 24 hours of arrival at such an establishment; the required permit must be presented to a State or Federal representative upon arrival at such an establishment.

We proposed to amend the regulations to place the same requirements on ratites moved interstate from a quarantined area as we do on poultry. The term ''ratites'' encompasses cassowaries, emus, kiwis, ostriches, and rheas. Surveillance of these birds for infection with END is more difficult than surveillance of poultry. Detection of virus shedding in live ratites is unpredictable. Examiners may not always be able to detect END infection by examination or testing of swabs for virus, which are the standard procedures for testing other birds whose movement is regulated under § 82.5(b). Tissue samples can provide additional certainty in diagnosing END; however, while the death loss rates in production flocks of poultry mean that tissue samples are normally available for testing, the death loss rates in flocks of ratites are much lower, meaning that tissue samples of ratites may be unavailable. The relative lack of dead ratites for surveillance purposes also means that tests on tissues of dead ratites are less reliable than tests on tissues of dead poultry. For these reasons, no consensus exists on optimal surveillance techniques for END in live ratites. This means that any determination that ratites to be moved interstate from a quarantined area are not known to be infected with END is, at best, uncertain.

In addition, it is often difficult to determine whether ratites have been exposed to END; they are mostly maintained in outdoor pens or in backyard flocks, which are often less biologically secure than the facilities in which commercial flocks of poultry are maintained. Ratites that have been kept in these conditions within a quarantined area may, therefore, be more likely to have been exposed to END than other birds kept under more biologically secure conditions. Finally, ratites typically live in highly concentrated populations, meaning that END could be spread quickly by an infected or exposed ratite moved interstate from a quarantined area.

Slaughtering and disposing of live poultry moved interstate from a quarantined area, as required by § 82.5(b), ensures that END virus is not spread from any poultry that, despite not being known to be infected with or exposed to END, may pose a risk of spreading the END virus during interstate movement. We proposed to require that ratites be moved to slaughter under the same conditions as live poultry to ensure that the END virus would not be spread through the movement of ratites from quarantined areas.

We received three comments on this proposed change. All three of the commenters opposed the change, stating instead that ratites should be treated similarly to other birds and allowed to move from the quarantined area without moving directly to slaughter. Instead, the commenters favored testing and holding the ratites under quarantine until they were proved not to be infected with END. Two of the commenters stated that there are tests that can identify END in ratites, making such a policy feasible.

We agree that there are methods that can be used to test ratites for END. As discussed in the proposed rule, however, surveillance of these birds for infection with END is more difficult than surveillance of poultry. Detection of virus shedding in live ratites is unpredictable. Examiners may not always be able to detect END infection by examination or testing of swabs for virus, which are the standard procedures for testing other birds whose movement is regulated by § 82.5(b). Tissue samples can provide additional

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0036.*

certainty in diagnosing END; however, while the death loss rates in production flocks of poultry mean that tissue samples are normally available for testing, the death loss rates in flocks of ratites are much lower, meaning that tissue samples of ratites may be unavailable. For these reasons, no consensus exists on optimal surveillance techniques for END in live ratites. Given that and the other risk factors described above, we believe that the risk associated with the interstate movement of ratites is similar to that associated with the interstate movement of poultry, and that the same restrictions on that movement are warranted.

One commenter stated that her own research had not shown ostrich to be especially susceptible to END or to have been a factor for the spread of END during the 2002–2003 END outbreaks.

During the 2002–2003 END outbreaks, we required ratites moved interstate from the quarantined area to be moved directly to slaughter, based on a risk assessment we conducted. This risk assessment and our experience in the 2002–2003 END outbreak led us to propose this change. The fact that ratites were not a factor for the spread of END during the 2002–2003 outbreak is therefore not inconsistent with the change we proposed.

Two of these commenters provided additional information for the section of our economic analysis that addressed the potential economic impact of this change, mostly related to the size of the ratite industry. We have used this information to update our economic analysis.

The commenters additionally expressed concern that the change would have catastrophic economic effects on the ratite industry.

Whenever END is detected in the United States, we will pursue eradication of the disease. Any quarantine for END would be temporary and local, thus minimizing the number of ratite operations affected by the requirement that ratites that are moved from the quarantined area be moved directly to slaughter. (Ratite flock owners whose flocks are not known to be infected with or exposed to END could also keep their flock in place during the quarantine.) The potential economic effects of this change, in the event of an END outbreak, are discussed in more detail under the heading ''Executive Order 12866 and Regulatory Flexibility Act'' later in this document.

Our proposed changes classified birds that could be moved from the quarantined area as pet birds, other birds, and poultry and ratites. One commenter, a racing pigeon association, recommended that racing pigeons be considered ''other birds'' rather than pet birds. The commenter stated that pets are essentially animals that are kept by humans for companionship; pigeon fanciers do not keep racing pigeons as pets, but as the necessary element in their hobby of breeding and racing pigeons. Racing pigeons are highly trained, fed careful diets, kept on a strict sanitary and medical regimen, and much prized for their athletic accomplishments. Pigeon fanciers do not look to their loft of birds, typically 60 to 100 in number, for companionship. The commenter also stated that racing pigeons are thoroughbreds and that championship birds can be worth thousands of dollars.

We agree with the commenter. During the 2002–2003 END outbreak, we considered racing pigeons to be ''other birds,'' and we will do so if another END outbreak occurs in the United States. Because the definition of *pet bird* in § 82.1 reads ''Any bird that is kept for personal pleasure and is not for sale,'' and because the commenter has presented convincing evidence that racing pigeons meet neither of these criteria, we believe that the regulations already accommodate the policy suggested by the commenter.

Other Comments

One commenter stated that the proposed rule was not in accord with the Terrestrial Animal Health Code published by the World Organization for Animal Health (OIE), specifically Chapter 2.7.13, Newcastle Disease, and Chapter 1.3.5, Zoning and Compartmentalization.[2]

The Terrestrial Animal Health Code is designed to provide a science-based reference document for international trade in animals and animal products. OIE guidelines are not intended to be prescriptive; each member nation sets its regulatory policy based not only on the Code but also on, among other things, local conditions. The commenter did not specify what provisions of the proposed rule were inconsistent with the Terrestrial Animal Health Code. We believe the changes we proposed are appropriate for eradicating END within the United States. We are making no changes in response to this comment.

One commenter stated that poultry become infected with END when they are kept in conditions that adversely affect their welfare. This commenter also stated that the interstate movement of poultry should not be allowed for any reason.

Poultry become infected with END when they are exposed to its causal virus. We may restrict the movement of poultry or any other animal only to the extent that such restrictions are necessary to prevent the introduction or spread of a pest or disease of livestock.

One commenter recommended that we require the complete and immediate incineration of all poultry carcasses known to be infected with END. The commenter recommended that we accomplish this by requiring all poultry producers to have a dual-chambered, environmentally safe incinerator on their premises. The commenter stated that such a requirement would eliminate the risk associated with moving the carcasses of infected poultry from a premises to an incinerator.

The commenter is correct that such a policy would directly address the risk associated with the movement of carcasses of infected poultry. However, we believe that the movement of such carcasses to an incinerator can be done safely if biological security protocols are followed. Therefore, an on-premises incinerator requirement is unnecessary. We will continue to work with States and industry to determine the safest and most efficient ways to dispose of carcasses of poultry infected with or exposed to END and other highly virulent poultry diseases.

Miscellaneous Change

The regulations in 9 CFR 94.6 address the importation into the United States of carcasses of game birds from regions where END is considered to exist. Paragraph (b)(1) of this section allows the carcasses of game birds to be imported into the United States as long as they are eviscerated and their heads and feet have been removed. In the proposed rule, we stated that the importation of such carcasses poses a high risk of introducing END into the United States and proposed to remove and reserve paragraph § 94.6(b)(1).

Since the publication of the proposed rule, we have completed a more thorough risk assessment of the risk associated with importing carcasses of game birds, as part of a risk assessment supporting the development of regulations for the importation of poultry and poultry products from regions where highly pathogenic avian influenza exists. This risk assessment, which will be published in completed form along with a rule proposing such regulations, indicates that the risk of disease introduction associated with the importation of game bird carcasses under the conditions specified in

[2] The Terrestrial Animal Health Code can be viewed on the Internet at *http://www.oie.int/eng/normes/mcode/en_sommaire.htm.*

§ 94.6(b)(1) is actually low. The carcass preparation process for game birds makes the tissue unsuitable for virus survival, and game bird carcasses typically do not come into contact with poultry populations, because the carcasses are intended for home display. Therefore, this final rule withdraws that proposed amendment and leaves § 94.6(b)(1) unchanged.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the change discussed in this document.

This final rule also serves to affirm the last 4 interim rules in a series of 10 interim rules we published between November 2002 and September 2003. The first six interim rules amended the regulations in part 82 by adding portions of Arizona, California, Nevada, New Mexico and Texas to the list in § 82.3 of areas quarantined for END; the final four interim rules subsequently removed all those areas from that list. The 10 interim rules elicited a total of 11 comments, only 2 of which were germane to the action taken in the interim rule (*i.e.*, the addition or removal of an area from quarantine). In both cases, the commenters pointed out the need for adequate surveillance to ensure the complete eradication of END in an area before it is removed from quarantine. In this final rule, we supplement the conditions for removing an area from quarantine by requiring an additional surveillance period after those conditions have been met before the quarantine will be removed. As noted in the proposed rule, we made that amendment based on information gained during the 2002–2003 END outbreak, which includes the information contained in the comments we received on the interim rules.

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.

We are making several changes to the END domestic quarantine regulations, including adding an option for the movement of pet birds; adding restrictions on the interstate movement of live ratites out of quarantined areas; harmonizing our domestic and import regulations regarding the movement of dressed carcasses of dead birds and dead poultry; providing for the use of alternative procedures for treating manure and litter and for composting; and adding an additional surveillance period after the conditions for removing quarantine are met before quarantine is removed. We concluded that these changes are necessary based on our experiences during the eradication programs for the 2002–2003 outbreaks of END in California, Arizona, Nevada, and Texas. In the event of an END outbreak, these changes will help to ensure that END does not spread from quarantined areas and that END is eradicated within quarantined areas.

END, also known as velogenic viscerotropic Newcastle disease, is a highly contagious and fatal viral disease affecting all species of birds. END is one of the most infectious and virulent diseases of poultry in the world, and the infection often results in many birds dying before demonstrating any clinical signs of infection. In unvaccinated poultry flocks, END has a death rate of close to 100 percent. Moreover, the mortality rates in vaccinated flocks are 10 to 20 percent, clearly showing that vaccination does not guarantee complete protection against END.

END was first identified in the United States in 1950 in California. The outbreak was traced to game birds and pheasants imported from Hong Kong. The disease spread to five poultry farms in Contra Costa County, but was quickly eliminated by destroying infected chickens. In 1971, a major outbreak of END occurred in California commercial poultry and lasted for 2 years. As a result of that outbreak 1,341 infected flocks were identified, and almost 12 million birds were destroyed. The eradication program cost taxpayers $56 million ($228 million in 2002 dollars), severely disrupted the operations of many producers, and increased the prices of poultry and poultry products to consumers.

On October 1, 2002, END was confirmed in backyard poultry in Southern California. The disease spread from backyard poultry to commercial poultry operations in California, backyard poultry in Nevada and Arizona, and poultry in Texas. The U.S. Department of Agriculture (USDA)'s Animal and Plant Health Inspection Service (APHIS) took the lead in END eradication efforts. Immediately a task force of over 1,500 people from APHIS, the California Department of Food and Agriculture, and other State and Federal agencies combined forces to fight this devastating disease. Almost 4 million birds were destroyed to contain the spread of END.

Economic Analysis

The final rule change to the END regulations will have an effect on all persons and entities handling birds of any type, including farm and commercial operations, backyard flock owners and enthusiasts, and pet bird owners in an END quarantined area wishing to engage in interstate movement. While accurate statistics on farm and commercial operations in the United States are readily available, there is a significant information gap on the backyard flocks and pet bird owners. As such, we have no way of quantifying the true number of persons affected by these changes.

The United States is the world's largest producer of poultry meat and the second-largest egg producer behind China. Preliminary reports for the year 2005 indicate there were a total of 452.8 million chickens, excluding commercial broilers, with a cash value of over $1.133 billion. In 2004 broiler production, raised for the purpose of meat production, totaled 8.7 billion birds, with a combined live weight of over 45.7 billion pounds. The value of broiler production for that year was over $20.4 billion. In 2004, the last full report available, there were over 89 billion eggs produced with a cash value of over $5.3 billion.[3] Preliminary statistics for 2004 indicate that turkey production totaled over 264 million birds with a combined live weight of 7.3 billion pounds and a cash value of over $3 billion.[4]

The U.S. poultry industry plays a significant role in international trade. In fact, the United States is the world's largest exporter of turkey products, and the second largest exporter of broilers. In 2005, broiler exports totaled 5.1 billion pounds, valued at $2.1 billion.[5] Turkey exports for the same year totaled over 541 million pounds, with a total value of about $369 million. In addition, 61.8 million dozen shell eggs for consumption, and 55 million pounds of egg products were exported in 2005.[6] The presence of END in the United States would significantly reduce our ability to be competitive in international markets in the trade of poultry and poultry products. By extension, any efforts made to contain and prevent the spread of END throughout the United States would serve to enhance our reputation for providing high-quality products. Thus, the changes in this rule

[3] USDA, *Agricultural Statistics 2006*. Washington, D.C.: National Agricultural Statistics Service, 2006. Estimates cover the 12-month period, December 1 of the previous year through November 30.

[4] USDA, *Agricultural Statistics 2006*. Estimates based on turkeys placed September 1, 2003 through August 31, 2004 and excludes young turkeys lost.

[5] USDA–ERS, *Background Statistics on U.S. Broiler Industry*. Washington, D.C.: Economic Research Service, 2006.

[6] USDA–FAS, *U.S. Trade Statistics*. Washington, D.C.: Foreign Agricultural Service, 2006.

will benefit the commercial poultry industry by increasing product marketability, both domestically and internationally.

This final rule also impacts the movement of ratites out of a quarantined area. Ratites are a family of flightless birds with small wings and flat breastbones. Domestic production of ratites is limited to ostriches and emus. This alternative livestock industry is still in its infancy, so new in fact that ratites have only been under mandatory USDA inspection since April 22, 2002, and were first included as a separate line item in the 2002 USDA Census of Agriculture. Ostrich was the first ratite to be raised in the United States. According to the 2002 Census of Agriculture, there are 5,224 farms raising a total of 48,221 emus, and 1,643 farms holding an inventory of 20,560 ostriches. Additionally, there were 15,682 emus and 16,038 ostriches sold according to Census data.[7] Ostriches are raised primarily for meat, with an average bird yielding about 75–100 pounds of meat, whereas emus are raised primarily for oil. According to American Ostrich Association (AOA) estimates, approximately 500,000 to 750,000 pounds of ostrich meat were processed from domestically produced ostrich in 2005, with a slaughter price of $1 per pound live weight. Due to a fluctuating market for oil, the value of emu production is indeterminate at this time. While U.S. farms raising ratites can have an inventory ranging from 2 to 2,000 birds, the AOA estimates that there are probably less than a dozen farms in the United States with 100 or more birds.[8] Based on these estimates, as well as Census data, we can assume the majority of ratite farmers would be considered small entities by SBA standards.[9]

Comments on the interim rule expressed concern over the continued presence of the U.S. ratite industry in light of movement restrictions put in place by this rule. However, we feel confident in our position that the ratite industry will not be significantly affected by this rule, especially not to the extent that the industry will no longer be viable. This rule will only affect those ratite owners located in an area quarantined for END who wish to move their ratites interstate. It is important to note that any area deemed necessary to be quarantined will be as small as possible, and will only be quarantined for a limited period of time, until the disease is eradicated. Farms raising ostriches and emus within the quarantined area will have the option of moving their birds directly to slaughter. The rule will impact ratite owners located in a quarantined area that move day-old or infant ratite birds interstate to farms where the birds are then raised, but we do not believe this impact will be significant, especially considering the quarantine would be in place for a limited time.

In addition, the regulations will affect backyard poultry not kept for commercial sale and pet owners in the quarantined area, the number of which is indeterminate. Although the specific numbers of persons in this category are unknown, we feel safe in determining that the impact of this regulation will not be significant as it only affects those owners located within a quarantined area for the limited time the quarantine is actually in place. The remainder of this analysis will consider each of the major changes in the final rule individually and examine the expected benefits and costs.

Live Pet Birds

The regulations in § 82.5 have prohibited the movement of pet birds out of a quarantined area unless they have been in the owner's control for 90 days. The final rule adds a new option that allows pet birds, except those that are imported for eventual resale as pets, that have been in the owner's control for less than 90 days to be moved out of the quarantined area if they enter a 30-day quarantine at a USDA quarantine station outside of the quarantined area and meet all other requirements for movement. There is a user fee of $390 to enter into this 30-day USDA quarantine station. Entering into this quarantine station is voluntary and is meant to increase the flexibility for pet owners who have been in control of their pet birds for less than 90 days. Intuitively, we expect only those pet owners who consider the value of protecting and moving their birds out of the quarantine area to be higher than the expense of the $390 fee to voluntarily enter the USDA facility. While that does pose an expense to pet owners, in light of the fact that the option allows for interstate movement where the regulations otherwise do not, it is safe to assume the cost is not overly burdensome for those pet owners deciding to enter their birds into the USDA facility.

Those birds that are imported for eventual resale as pets, which fall under the added definition of commercial birds, are not bound by the restrictions in § 82.5(a). Current regulations require that commercial birds be imported from and into biologically secure facilities. As such, birds imported for eventual resale as pets have already met the necessary requirements to be determined free of END. This amendment is more of a clarification rather than an actual change in movement requirements. Generally, END regulations governing pet birds are more restrictive than for other birds due to the fact that there are fewer biological security measures in place, and pet birds are thus more vulnerable to contracting and spreading END.

Other Live Birds, Including Ratites

Ratites tend to be housed in outdoor pens or backyard flocks, thereby making surveillance of these birds for END more difficult. Also, virus detection techniques that are widely used to detect END were inconclusive when used on ratites. Combined, this creates a situation where infection of ratites in a quarantined area is highly possible and detection is uncertain, thus increasing the risk for widespread END dissemination. Consequently, this final rule amends § 82.5(b)(5) to prohibit interstate movement of ratites from an area quarantined for END unless they are moved to a recognized slaughtering establishment and slaughtered within 24 hours of arrival at that establishment.

Previously, ratites not known to be infected with or exposed to END were allowed to move interstate as long as they were accompanied by a permit. Coupled with the knowledge that epidemiological tests for END were inconclusive in ratites, this created a situation where the dissemination of END was possible. In situations where ratites were thought to be exposed to END, these flocks were depopulated and the owners were paid indemnity based on current market values. While this rule places additional restrictions on the movement of ratites from areas quarantined because of END, we do not believe the economic effects of this rule will be significant. Even though the interstate movement of ratites from a quarantined area must be directly to slaughter, the marketability of meat and oil, which are the primary markets for the ratite industry, are not adversely affected by this movement restriction. Essentially, this change in the regulations seeks to increase biological

[7] USDA, *2002 Census of Agriculture—Table 27*. Washington, D.C.: National Agricultural Statistics Service, 2006.

[8] Source: Dianna Westmoreland and Carole Price of the AOA, through submitted comments and personal communication.

[9] A small ratite farm is one having $750,000 or less in annual receipts. North American Industry Classification System (NAICS) code 112390, ''Other Poultry Production,'' which includes duck, emu, geese, ostrich, pheasant, quail and ratite production. Table of Size Standards based on NAICS 2002. Washington, D.C.: U.S. Small Business Administration, effective July 31, 2006.

security measures by restricting the movement of ratites from quarantined areas. We do not expect the economic impacts to affected producers of ratites to be significant.

Dressed Carcasses of Dead Birds and Dead Poultry

We will harmonize § 82.6 with the regulations in § 94.6 under which carcasses, and parts or products of carcasses, of birds and poultry may be imported into the United States from an area where END is considered to exist. The principal effect of this change will be to prohibit any movement of uncooked bird or poultry meat out of a quarantined area. Only meat that has both been packed in hermetically sealed containers and cooked by a commercial method after packing to produce articles that are shelf-stable without refrigeration, or cooked so that it has a thoroughly cooked appearance throughout, will be allowed to move from the quarantined area. The regulations had not required sealing and commercial cooking, so these new regulations are intended to provide a higher level of protection against the spread of END. The cost burdens of these changes are fairly obvious for those producers in a quarantined area engaged in the interstate movement of dead birds and poultry. Specifically, these costs include gathering materials to seal the dead birds or poultry; the expense of electricity and/or gas, and perhaps equipment, needed to commercially cook the dead birds or poultry, and the additional labor costs associated with this change. These costs vary by producer. We do not anticipate these costs will significantly impact producers, the majority of which are small entities. The major benefit of this change, outside of increasing safeguards against END, is to harmonize our domestic requirements for movement out of a quarantined area with our import requirements for dressed carcasses from regions where END is known to exist.

Manure and Litter

Previously the only way manure and litter used by birds and poultry not known to be infected with END could be moved interstate from a quarantined area was by heating throughout to a temperature of not less than 175 °F along with other requirements. This rule will provide producers with additional flexibility by providing for the use of any alternative treatment that is determined by the Administrator to be adequate in preventing the dissemination of END. This change would result in a potential decrease in cost, as we assume producers are profit-maximizing entities; hence, it is safe to assume any alternative treatment proposed and accepted will be cheaper than the heat treatment previously required. As such, it is hard to quantify the actual cost savings of this change in the regulations as it will vary based on the alternative chosen.

Also, this rule establishes a procedure under which composted manure and/or litter from infected premises will be allowed to move outside the quarantined area. The regulations in § 82.7(a)(2) have prohibited the movement from a quarantined area of any manure or litter from infected premises, so this amendment will allow producers greater flexibility. Thus, we expect that producers will benefit by having greater flexibility and the opportunity to decrease their present costs by looking into additional options for the disposal of manure and litter.

Eggs, Other Than Hatching Eggs

This final rule adds performance standards for processing plants that prepare eggs for eventual sale. In an effort to increase biological security at these sites, these processing plants will have to meet several standards, including:

- Physically separating processing and layer facilities, the incoming and outgoing eggs by quarantined and non-quarantined areas, and any flocks that may reside at the processing plant.
- Putting in place adequate controls to ensure processing plants are not exposed to END by any outside sources (i.e. those persons higher up in the vertical chain of production).
- Disinfecting equipment in accordance with 9 CFR part 71 at intervals deemed appropriate by the Administrator, so that there is less of a chance the equipment will transmit END to the eggs being processed.

Implementing these biological security standards will pose some burdens on processing plants. The actual cost imposed is indeterminable, because that will vary by processing plant. However, it is of note that the majority of these standards have to do with modifications in the procedures rather than any sort of capital investment. As such, it is not expected that processing plants will incur a significant economic burden by conforming to these standards.

Hatching Eggs

This change in the regulations will better harmonize domestic requirements for the movement of hatching eggs from a quarantined area with the import requirements for hatching eggs from regions where END is considered to exist. As a result, persons wishing to move hatching eggs out of a quarantined area must now follow the procedures in the National Poultry Improvement Plan for sanitizing hatching eggs, as found in 9 CFR 147.22 and 147.25. By harmonizing our domestic requirements with our import requirements, the conditions governing the movement of hatching eggs out of quarantined areas will be slightly more restrictive. However, this change is not expected to pose a significant economic burden upon affected entities.

Removal of Quarantine

Finally, before the quarantine is lifted, birds and poultry that died from any cause other than slaughter, along with accompanying manure and litter generated by these birds and poultry, must be disposed of using an approved method, including composting. This final rule will allow the use of any alternative composting treatment that is determined by the Administrator to be adequate to prevent the dissemination of END. This amendment is expected to produce cost savings, as we would expect producers to only adopt alternative treatment mechanisms that are cheaper than those currently prescribed. In addition, the regulations will require follow-up surveillance after a quarantined area has fulfilled all requirements to have the quarantine lifted. The time period necessary to conduct this follow-up surveillance will be determined by the Administrator of APHIS. This additional observation period will ensure the quarantine is not lifted prematurely.

Impact on Small Entities

This final rule's amendments to the regulations are intended to ensure that any future END outbreaks in the United States are contained to as small an area as possible while allowing emergency authorities the flexibility to choose the methods best suited to meet that goal. Costs of complying with the regulations are relatively minimal and for the most part are not borne by producers. Specifically, there will be a user fee of $390 to enter the 30-day USDA quarantine station for those pet owners in control of their pets for less than 90 days wishing to move their birds interstate. In order to comply with those regulatory changes that will harmonize domestic and import regulations for END, producers located within the quarantined area wishing to engage in interstate movement of dead birds and poultry must sustain the costs relating to sealing and commercially cooking the birds. In the case of processing plants,

the costs inherent in complying with the change in the regulations are not expected to require capital investment; rather, there will be the cost of extra labor and materials required with respect to meeting the amended standards. Finally, State and/or Federal Governments, depending on the type of quarantine, must shoulder the cost of inspection and certification of hatching eggs from a quarantined area. The benefits of the changes in this rule aimed at ensuring more efficient and effective END containment and eradication efforts are numerous. In many cases, the actual benefit in monetary terms is not possible to quantify. For example, pet bird owners in control of their pets for less than 90 days are afforded the opportunity to move their pets from the quarantined area. Alternative treatment procedures for moving manure and litter from a quarantined area will be considered and accepted by APHIS, thus lifting some of the cost burdens previously faced by producers. Most importantly, the changes in this final rule are intended to reduce and even eliminate biological security hazards associated with END. The costs of compliance are insignificant in comparison to the benefits of containing and eradicating END in domestic flocks. Therefore, APHIS believes the net benefit of this rule will be positive.

The Regulatory Flexibility Act requires that agencies consider the economic impact of a regulation on small entities. The 2002 Agricultural Census estimated there were 83,381 domestic poultry and egg farms, with a total market value over $23.9 billion. Unfortunately, concrete information on the size distribution is unknown, but the census does indicate that only 8,791, or 10.5 percent, of those poultry operations have sold between $500,000 and $999,999 in market value of agricultural products.[10] Also, as was mentioned on the outset, the ratite farming industry is in its infancy. Therefore, it would be safe to assume that the majority of poultry operations in the United States are classified as small entities.[11] While we acknowledge that these small entities will incur some costs of compliance, we do not believe these costs are significant. Further, it is vital to remember that this final rule affects only those small poultry operations located within an area quarantined for END, and only for as long as the quarantine is in place.

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 new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 (et seq.).

List of Subjects for 9 CFR Part 82

Animal diseases, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 9 CFR part 82 as follows:

PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS

■ 1. The authority citation for part 82 continues to read as follows:

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

■ 2. Section 82.1 is amended as follows:

■ a. By removing the definition of *pet bird*.

■ b. By adding, in alphabetical order, definitions of *commercial birds, pet birds*, and *ratites* to read as set forth below.

■ c. By revising the definition of *dressed carcasses* to read as set forth below.

§ 82.1 Definitions.

* * * * *

Commercial birds. Birds that are moved or kept for resale, breeding, public display, or any other purpose, except pet birds.

Dressed carcasses. Carcasses of birds or poultry that have been eviscerated, with heads and feet removed, or parts or products of such carcasses.

* * * * *

Pet birds. Birds, except ratites, that are kept for the personal pleasure of their individual owners and are not intended for resale.

* * * * *

Ratites. Cassowaries, emus, kiwis, ostriches, and rheas.

* * * * *

§ 82.4 [Amended]

■ 3. In § 82.4, paragraph (a)(2) is amended by adding the words ‘‘, except as provided in § 82.7(b)’’ after the word ‘‘END’’.

■ 4. Section 82.5 is amended as follows:

■ a. By revising paragraph (a) and the introductory text of paragraph (b) to read as set forth below.

■ b. In paragraph (b)(5), by adding the words ‘‘or ratites’’ after the word ‘‘poultry’’ each time it occurs.

§ 82.5 Interstate movement of live birds and live poultry from a quarantined area.

(a) *Pet birds.* An individual may move his or her pet birds interstate from a quarantined area only if the birds are not known to be infected with or exposed to END and the following requirements are fulfilled:

(1) *Epidemiological and testing requirements.* For all pet birds moved interstate, epidemiological evidence must indicate that the birds are not infected with any communicable disease.

(i) *Pet birds that have been under the control and ownership of the owner for at least 90 days.* Pet birds that have been under the ownership and control of the individual to whom the permit is issued for the 90 days before interstate movement, show no clinical signs of sickness (such as diarrhea, nasal discharge, ocular discharge, ruffled feathers, or lack of appetite) during the 90 days before interstate movement, and have been maintained apart from other birds and poultry in the quarantined area during the 90 days before interstate movement may be moved to a location outside the quarantined area for subsequent examination. The individual to whom the permit is issued must maintain ownership and control of the birds and maintain them apart from other birds and poultry from the time they arrive at the place to which the individual is taking them until a Federal

[10] USDA, *2002 Census of Agriculture, Table 56.* Washington, DC: National Agricultural Statistics Service, 2006.

[11] A small chicken egg operation is one having $10.5 million or less in annual receipts. All other poultry products and meat operations are small if they have $750,000 or less in annual receipts. Table of Size Standards based on NAICS 2002. Washington, DC: U.S. Small Business Administration, effective July 31, 2006.

representative or State representative [3] examines the birds and determines that the birds show no clinical signs of END. The examination will not be less than 30 days after the interstate movement. The individual to whom the permit is issued must allow Federal representatives and State representatives to examine the birds at any time until they are declared free of END by either a Federal veterinarian or a State veterinarian.

(ii) *All other pet birds.* Pet birds that do not meet the criteria in paragraph (a)(2)(i) of this section may only be moved to a USDA-approved quarantine facility outside the quarantined area for a 30-day quarantine before being released. The individual to whom the permit is issued must maintain ownership and control of the birds and maintain them isolated from other birds or poultry until the time they arrive at the USDA-approved quarantine facility. The pet bird owner is responsible for all costs associated for keeping his or her pet birds at the USDA-approved quarantine facility for the 30-day quarantine period.

(2) *Movement restrictions.* All pet birds must be moved interstate from a quarantined area under the following conditions:

(i) The birds are accompanied by a permit obtained in accordance with § 82.11.

(ii) The birds are moved interstate by the individual to whom the permit is issued.

(iii) The birds are caged while being moved interstate.

(iv) Within 24 hours of a bird's dying or showing clinical signs of sickness (such as diarrhea, nasal discharge, ocular discharge, ruffled feathers, or lack of appetite), the individual to whom the permit is issued notifies the veterinarian in charge or the State animal health official [4] in the State to which the birds are moved.

(v) The individual to whom the permit is issued submits copies of the permit so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the birds at the destination listed on the permit.

(b) *Other birds (including commercial birds) and poultry.* Except as provided for pet birds in paragraph (a) of this section, a person may move live birds (including commercial birds) and live poultry that are not known to be infected with or exposed to END interstate from a quarantined area only if:

* * * * *

■ 5. In § 82.6, paragraph (b) is revised to read as follows.

§ 82.6 Interstate movement of dead birds and dead poultry from a quarantined area.

* * * * *

(b) Dressed carcasses from birds and poultry that are not known to be infected with END may be moved interstate from a quarantined area only if:

(1) The dressed carcasses are from birds or poultry that were slaughtered in a recognized slaughtering establishment; [6]

(2) The dressed carcasses have been processed in one of the following ways:

(i) They are packed in hermetically sealed containers and cooked by a commercial method after such packing to produce articles which are shelf-stable without refrigeration; or

(ii) They have been thoroughly cooked and have a thoroughly cooked appearance throughout;

(3) If the dressed carcasses are from poultry, the processing establishment that treats the dressed carcasses in accordance with paragraph (b)(2) of this section employs the following safeguards:

(i) If receiving or handling any live poultry, there must be complete separation between the slaughter portion of the establishment and the portions of the establishment in which further processing takes place;

(ii) If the plant processes dressed carcasses from both quarantined and nonquarantined areas, all areas, utensils, and equipment likely to contact the poultry carcasses to be processed, including skimming, deboning, cutting, and packing areas, are cleaned and disinfected in accordance with part 71 of this chapter between the processing of dressed poultry carcasses from the quarantined area and the processing of dressed poultry carcasses from nonquarantined areas;

(iii) The dressed carcasses are stored in a manner that ensures that no cross-contamination with potentially infectious materials, such as raw or unprocessed products, occurs;

(4) The dressed carcasses are accompanied by a permit obtained in accordance with § 82.11;

(5) The dressed carcasses are moved in a means of conveyance either under official seal or accompanied by a Federal representative;

(6) The dressed carcasses are not unloaded until their arrival at the destination listed on the permit required by paragraph (b)(4) of this section;

(7) The dressed carcasses are moved, without stopping, to the destination listed on the permit required by paragraph (b)(4) of this section, except for normal traffic conditions, such as traffic lights and stop signs; and

(8) Copies of the permit accompanying the dressed carcasses are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of the arrival of the dressed carcasses at the destination listed on the permit required by paragraph (b)(4) of this section.

* * * * *

■ 6. Section 82.7 is amended as follows:

■ a. By redesignating paragraphs (a), (b), (c), and (d) as paragraphs (a)(1), (a)(2), (a)(3), and (a)(4), respectively, and designating the introductory text of the section as paragraph (a).

■ b. In newly redesignated paragraph (a)(2), by adding the words ''or subjected to any other treatment approved by the Administrator as being adequate to prevent the dissemination of END'' after the words ''not less than 175 °F (79.4 °C)''.

■ c. By adding a new paragraph (b) to read as set forth below.

§ 82.7 Interstate movement of manure and litter from a quarantined area.

* * * * *

(b) Compost derived from manure generated by and litter used by birds or poultry known to be infected with END may be moved interstate from a quarantined area only if:

(1) The manure and litter is accompanied by a permit obtained in accordance with § 82.11;

(2) All birds and poultry have been removed from the premises where the manure or litter is held;

(3) After all birds are removed from the premises where the manure or litter is held, all manure and litter inside and outside the bird or poultry house remains undisturbed for at least 28 days before being moved from the infected premises for composting;

(4) Composting is done at a site approved by the Administrator and under a protocol approved by the Administrator as being adequate to prevent the dissemination of END. All

[3] The location of Federal representatives and State representatives may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road, Unit 41, Riverdale, MD 20737–1231.

[4] The location of the veterinarian in charge or the State animal health official may be obtained by writing to Emergency Programs, Veterinary Services, Animal and Plant Health Inspection Service, 4700 River Road, Unit 41, Riverdale, MD 20737–1231, or by referring to the local telephone book.

[6] See footnote 5 to § 82.5.

manure and litter from the infected premises must be moved to the composting site at the same time;

(5) Following the composting process, the composted manure or litter remains undisturbed for an additional 15 days before movement;

(6) After this 15-day period, all of the composted manure or litter from the infected site is removed at the same time;

(7) The resulting compost must be transported either in a previously unused container or in a container that has been cleaned and disinfected, since last being used, in accordance with part 71 of this chapter;

(8) The vehicle in which the resulting compost is to be transported has been cleaned and disinfected, since last being used, in accordance with part 71 of this chapter; and

(9) Copies of the permit accompanying the compost derived from the manure and the litter are submitted so that a copy is received by the State animal health official and the veterinarian in charge for the State of destination within 72 hours of arrival of the compost at the destination listed on the permit.

■ 7. Section 82.8 is amended as follows:

■ a. In paragraph (a)(2), by removing the citation ''7 CFR part 59'' and adding the citation ''9 CFR part 590'' in its place.

■ b. By revising paragraph (a)(3) to read as set forth below.

§ 82.8 Interstate movement of eggs, other than hatching eggs, from a quarantined area.

(a) * * *

(3) The establishment that processes the eggs, other than hatching eggs, for sale establishes procedures adequate to ensure that the eggs are free of END, including:

(i) The establishment separates processing and layer facilities, the incoming and outgoing eggs at the establishment, and any flocks that may reside at the establishment;

(ii) The establishment implements controls to ensure that trucks, shipping companies, or other visitors do not expose the processing plant to END;

(iii) Equipment used in the establishment is cleaned and disinfected in accordance with part 71 of this chapter at intervals determined by the Administrator to ensure that the equipment cannot transmit END to the eggs, other than hatching eggs, being processed; and

(iv) The eggs are packed either in previously unused flats or cases, or in used plastic flats that were cleaned or disinfected since last being used, in accordance with part 71 of this chapter;

* * * * *

■ 8. Section 82.9 is amended as follows:

■ a. In paragraph (b), by removing the word ''and'' at the end of the paragraph.

■ b. By redesignating paragraph (c) as paragraph (d).

■ c. By adding a new paragraph (c) to read as set forth below.

§ 82.9 Interstate movement of hatching eggs from a quarantined area.

* * * * *

(c) The hatching eggs have been kept in accordance with the sanitation practices specified in § 147.22 and § 147.25 of the National Poultry Improvement Plan; and

* * * * *

■ 9. Section 82.14 is amended as follows:

■ a. In paragraph (c)(2), in the introductory text, by revising the second sentence to read as set forth below.

■ b. In paragraph (e)(2), by removing the first sentence and by adding two new sentences in its place to read as set forth below.

■ c. By adding a new paragraph (i) to read as set forth below.

§ 82.14 Removal of quarantine.

* * * * *

(c) * * *

(2) * * * The birds and poultry must be composted according to the following instructions or according to another procedure approved by the Administrator as being adequate to prevent the dissemination of END:

* * * * *

(e) * * *

(2) *Composting*. If the manure and litter is composted, the manure and litter must be composted in the quarantined area. The manure and litter must be composted according to the following method, or according to another procedure approved by the Administrator as being adequate to prevent the dissemination of END: Place the manure and litter in rows 3 to 5 feet high and 5 to 10 feet at the base. * * *

* * * * *

(i) After the other conditions of this section are fulfilled, an area will not be released from quarantine until followup surveillance over a period of time determined by the Administrator indicates END is not present in the quarantined area.

* * * * *

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–11741 Filed 5–23–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2006–P–0404] (Formerly Docket No. 2006P–0487)

Food Labeling: Health Claims; Dietary Noncariogenic Carbohydrate Sweeteners and Dental Caries

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is adopting as a final rule, without change, the provisions of the interim final rule that amended the regulation authorizing a health claim on noncariogenic carbohydrate sweeteners and dental caries, i.e., tooth decay, to include isomaltulose as a substance eligible for the health claim. FDA is taking this action to complete the rulemaking initiated with the interim final rule.

DATES: This rule is effective May 27, 2008.

FOR FURTHER INFORMATION CONTACT: Jillonne Kevala, Center for Food Safety and Applied Nutrition (HFS–830), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1450.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 17, 2007 (72 FR 52783), FDA published an interim final rule to amend the regulation in part 101 (21 CFR part 101) that authorizes a health claim on the relationship between noncariogenic carbohydrate sweeteners and dental caries (§ 101.80) to include the noncariogenic sugar isomaltulose. Under section 403(r)(3)(B)(i) and section 403(r)(7) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(r)(3)(B)(i) and 343(r)(7)), FDA issued this interim final rule in response to a petition filed under section 403(r)(4) of the act. Section 403(r)(3)(B)(i) of the act states that the Secretary of Health and Human Services (and, by delegation, FDA) shall issue a

regulation authorizing a health claim if he or she ''determines, based on the totality of publicly available scientific evidence (including evidence from well-designed studies conducted in a manner which is consistent with generally recognized scientific procedures and principles), that there is significant scientific agreement, among experts qualified by scientific training and experience to evaluate such claims, that the claim is supported by such evidence'' (see also § 101.14(c)). Section 403(r)(4) of the act sets out the procedures that FDA is to follow upon receiving a health claim petition. Section 403(r)(7) of the act permits FDA to make a proposed regulation issued under section 403(r) effective upon publication pending consideration of public comment and publication of a final regulation if the agency determines that such action is necessary for public health reasons.

On August 31, 2006, Cargill, Inc. (petitioner), submitted a health claim petition to FDA requesting that the agency amend the ''dietary noncariogenic carbohydrate sweeteners and dental caries'' claim at § 101.80 to authorize a noncariogenic dental health claim for isomaltulose. FDA filed the petition for comprehensive review in accordance with section 403(r)(4) of the act on December 8, 2006. The petitioner requested that FDA grant an interim final rule by which foods containing isomaltulose could bear the health claim prior to publication of the final rule. FDA and the petitioner mutually agreed to extend the deadline for the agency's decision on the petition to September 5, 2007.

As part of its review of the scientific literature on isomaltulose and dental caries, FDA considered the scientific evidence presented in the petition as well as information previously considered by the agency on the etiology of dental caries and the effects of slowly fermentable carbohydrates. The agency summarized this evidence in the interim final rule (72 FR 52783 at 52784 to 52786). Based on the available evidence, FDA concluded that isomaltulose, like other noncariogenic carbohydrate sweeteners listed in § 101.80(c)(2)(ii), does not promote dental caries. Consequently, FDA amended § 101.80(c)(2)(ii) to broaden the health claim to include isomaltulose as an additional substance eligible for the health claim.

II. Summary of Comments and the Agency's Response

FDA solicited comments on the interim final rule. The comment period closed on December 3, 2007. The agency received four letters of response, three from consumers and one from a manufacturer. The manufacturer supported the interim rule. Two of the consumers' comments addressed issues that are outside the scope of this rulemaking and will not be addressed here. The remaining comment suggested that there had been insufficient testing to demonstrate the safety of isomaltulose, but did not provide any information or analysis to support revision of the agency's conclusion.

Given the absence of contrary evidence on the agency's decisions announced in the interim final rule, FDA is adopting as a final rule, without change, the interim final rule that amended § 101.80 to include isomaltulose as a substance eligible for the dental caries health claim.

III. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is not a significant regulatory action under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this final rule allows new voluntary behavior and imposes no additional restrictions on current practices, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement which includes an assessment of anticipated costs and benefits before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $127,000,000, using the most current (2006) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any one-year expenditure that would meet or exceed this amount.

FDA received no comments relevant to economic impact. The costs and benefits of available regulatory alternatives analyzed in the interim final rule (72 FR 52783 at 52787 to 52788) are adopted without change in this final rule. By now affirming that interim final rule, FDA has not imposed any new requirements. Therefore, there are no additional costs and benefits associated with this final rule.

IV. Environmental Impact

The agency has determined under 21 CFR 25.32(p) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Paperwork Reduction Act

FDA concludes that the labeling provisions of this final rule are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Rather, the food labeling health claim on the association between consumption of isomaltulose and the nonpromotion of dental caries is a ''public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)).

VI. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule will have a preemptive effect on State law. Section 4(a) of the Executive order requires agencies to ''construe * * * a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.'' Section 403A of the act (21 U.S.C. 343–1) is an express preemption provision. Section 403A(a)(5) of the act provides that:

> * * * no State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food in interstate commerce—* * *(5) any requirement respecting any claim of the type described in section 403(r)(1) made in the label or labeling of food that is not

identical to the requirement of section 403(r) * * *

On September 17, 2007, FDA published an interim final rule which imposed requirements under section 403(r) of the act. This final rule affirms the September 17, 2007, amendment to the existing food labeling regulations to add isomaltulose to the authorized health claim for noncariogenic carbohydrate sweeteners and dental caries. Although this rule has a preemptive effect in that it precludes States from issuing any health claim labeling requirements for isomaltulose and the nonpromotion of dental caries that are not identical to those required by this final rule, this preemptive effect is consistent with what Congress set forth in section 403A of the act. Section 403A(a)(5) of the act displaces both State legislative requirements and State common law duties. *Riegel v. Medtronic*, 128 S. Ct. 999 (2008).

FDA believes that the preemptive effect of this final rule is consistent with Executive Order 13132. Section 4(e) of the Executive order provides that ''when an agency proposes to act through adjudication or rulemaking to preempt State law, the agency shall provide all affected State and local officials notice and an opportunity for appropriate participation in the proceedings.'' On August 1, 2007, FDA's Division of Federal and State Relations provided notice via fax and e-mail transmission to State health commissioners, State agriculture commissioners, food program directors, and drug program directors, as well as FDA field personnel, of FDA's intent to amend the health claim regulation authorizing health claims for noncariogenic carbohydrate sweeteners and dental caries (§ 101.80). FDA received no comments from any States in response to this notice.

In addition, the agency sought input from all stakeholders through publication of the interim final rule in the **Federal Register** on September 17, 2007 (72 FR 52783). FDA received no comments from any States on the interim final rule.

In conclusion, the agency believes that it has complied with all of the applicable requirements of Executive Order 13132 and has determined that the preemptive effects of this rule are consistent with the Executive order.

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and Recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 101 is amended as follows:

PART 101—FOOD LABELING

■ Accordingly, the interim final rule amending § 101.80 that was published in the **Federal Register** of September 17, 2007 (72 FR 52783), is adopted as a final rule without change.

Dated: May 19, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–11802 Filed 5–23–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9400]

RIN 1545–BG97

Treatment of Property Used To Acquire Parent Stock in Certain Triangular Reorganizations Involving Foreign Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations under section 367(b) of the Internal Revenue Code (Code). The final regulations revise an existing final regulation and add a cross-reference. The temporary regulations implement the rules described in Notice 2006–85 and Notice 2007–48. The regulations affect corporations engaged in certain triangular reorganizations involving one or more foreign corporations. The text of the temporary regulations serves as the text of the proposed regulations (REG–136020–07) set forth in the notice of proposed rulemaking on this subject published in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective May 27, 2008.

Applicability Dates: For dates of applicability, see § 1.367(a)–3T(b)(2)(i)(C) and 1.367(b)–14T(e).

FOR FURTHER INFORMATION CONTACT: Daniel McCall, (202) 622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On September 22, 2006, the IRS and Treasury Department issued Notice 2006–85 (2006–41 IRB 677), which announced that regulations would be issued under section 367(b) to address certain triangular reorganizations under section 368(a) involving one or more foreign corporations. On May 31, 2007, the IRS and Treasury Department issued Notice 2007–48 (2007–25 IRB 1428), which amplified Notice 2006–85 and announced that additional regulations would be issued under section 367(b). Each notice describes transactions the IRS and Treasury Department believe raise significant policy concerns.

Notice 2006–85 describes triangular reorganizations in which a subsidiary (S) purchases stock of its parent corporation (P) from P in exchange for property, and then exchanges the P stock for the stock or assets of a target corporation (T), but only if P or S (or both) is foreign. Notice 2006–85 announced that regulations to be issued under section 367(b) would make adjustments that would have the effect of a distribution of property from S to P under section 301 (deemed distribution). Notice 2006–85 further announced that regulations would address similar transactions where S acquires the P stock from a related party that purchased the P stock in a related transaction.

Notice 2007–48 describes transactions in which S purchases all or a portion of the P stock exchanged in the reorganization from a person other than P (such as from public shareholders on the open market). Notice 2007–48 announced that regulations to be issued under section 367(b) would also make adjustments that would have the effect of a distribution of property from S to P (under section 301) followed by a deemed contribution of such property by P to S. Notice 2007–48 further announced that the regulations would take into account the earnings and profits of other corporations, as appropriate, if a principal purpose of creating, organizing, or funding S is to avoid the adjustments to be made by the regulations.

These temporary regulations set forth the regulations described in Notices 2006–85 and 2007–48. The existing final regulations under § 1.367(b)–13 are revised to conform the definitions of the terms P, S, and T in those regulations to the definitions of such terms in these temporary regulations. The existing final regulations under § 1.367(b)–2 are revised to clarify that the definition of earnings and profits in § 1.367(b)–2(l)(8) applies only for purposes of §§ 1.367(b)–7 and 1.367(b)–9.

Explanation of Provisions

A. Section 367— In General

Section 367(a)(1) provides that if, in connection with any exchange described in section 332, 351, 354, 356, or 361, a United States person transfers property to a foreign corporation, such foreign corporation shall not, for purposes of determining the extent to which gain shall be recognized on such transfer, be considered to be a corporation. However, exceptions are provided under section 367(a)(2) and (3), and the Secretary has broad authority under section 367(a)(6) to provide that section 367(a)(1) will not apply to certain transfers otherwise described therein.

Section 367(b)(1) provides that in the case of any exchange described in section 332, 351, 354, 355, 356, or 361 in connection with which there is no transfer of property described in section 367(a)(1), a foreign corporation shall be considered to be a corporation except to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes.

Section 367(b)(2) provides that the regulations prescribed pursuant to section 367(b)(1) shall include (but shall not be limited to) regulations dealing with the sale or exchange of stock or securities in a foreign corporation by a United States person, including regulations providing the circumstances under which gain is recognized, amounts are included in gross income as a dividend, adjustments are made to earnings and profits, or adjustments are made to basis of stock or securities.

B. Policies of Section 367(b)

Section 367(b) was enacted to ensure that international tax considerations are adequately addressed when the nonrecognition provisions of subchapter C of the Code apply to certain exchanges involving foreign corporations. Congress further noted that ''it is essential to protect against tax avoidance in transfers to foreign corporations and upon the repatriation of previously untaxed foreign earnings. * * *'' H.R. Rep. No. 658, 94th Cong., 1st Sess. 241 (1975). Accordingly, Congress granted the Secretary authority to provide regulations ''necessary or appropriate to prevent the avoidance of Federal income taxes'' and identified ''transfers constituting a repatriation of foreign earnings'' as a type of transfer to be covered in regulations to be promulgated by the Secretary. Id. The Secretary has exercised this grant of authority to address a wide range of international policy concerns. For further discussion, see Notices 2006–85 and 2007–48.

C. Adjustments Made Under Section 367(b)

These temporary regulations apply to triangular reorganizations where P or S (or both) is foreign and, in connection with the reorganization, S acquires, in exchange for property, all or a portion of the P stock that is used to acquire the stock or assets of T. The ''in connection with'' standard is a broad standard that includes any transaction related to the reorganization even if the transaction is not part of the plan of reorganization. For example, the temporary regulations apply to a triangular reorganization regardless of whether P controls S (within the meaning of section 368(c)) when S acquires the P stock that is used in the reorganization.

In a triangular reorganization subject to the temporary regulations, adjustments shall be made that have the effect of a distribution of property from S to P under section 301. The amount of the deemed distribution shall equal the amount of money plus the fair market value of other property that S used to acquire P stock. For this purpose, the term property has the meaning set forth in section 317(a), but includes any liability assumed by S in exchange for the P stock (notwithstanding the application of section 357(a)) and any S stock used by S to acquire the P stock from a person other than P. Consistent with the rule announced in Notice 2007–48, these temporary regulations provide that to the extent S buys P stock from a person other than P, immediately after taking into account the deemed distribution to P, P is deemed to contribute to S the property deemed distributed to P.

These temporary regulations provide that the deemed distribution shall be treated as a distribution for all purposes of the Code. For example, provisions such as sections 312, 881, 897, 902, 959, 1442, and 1445 apply, as appropriate, to the deemed distribution. Similarly, the deemed contribution of property shall be treated as a contribution of property for all purposes of the Code. For example, appropriate adjustments to P's basis in the S stock and other affected items shall be made according to applicable Code provisions.

Ordering rules are provided that generally require the deemed distribution and, in cases where S buys P stock from a person other than P, the deemed contribution to be taken into account before the transfers undertaken pursuant to the triangular reorganization. If P does not control S (within the meaning of section 368(c)) at the time that S purchases the P stock, the deemed distribution and deemed contribution shall be treated as separate transactions occurring immediately after P acquires control of S. Thus, in a transaction where S purchases the P stock from a person other than P, after taking into account the adjustments made under these temporary regulations, S's purchase and transfer of P stock pursuant to the triangular reorganization are taken into account under generally applicable Code provisions, such as sections 304, 354, 356, 358, and 368.

These temporary regulations also provide that appropriate adjustments will be made if in connection with a triangular reorganization described in the regulations, a transaction is engaged in with a view to avoid the purpose of the regulations. For example, if S is a newly formed corporation and, in connection with the reorganization, P contributes to S another corporation with positive earnings and profits (S2) to facilitate S's purchase of the P stock or to facilitate the repayment of an obligation incurred by S to purchase the P stock, then, under the temporary regulations, the earnings and profits of S may be deemed to include the earnings and profits of S2.

Finally, these temporary regulations contain a coordination rule that applies to transactions described in section 367(a) and § 1.367(b)–14T. The IRS and Treasury Department continue to study transactions that implicate the policies of section 367(a) and (b), but that are not subject to both provisions as a result of the application of the coordination rule. Comments are requested on such transactions.

Availability of IRS Documents

IRS notices cited in this preamble are made available by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Effective/Applicability Dates

With respect to those rules addressing transactions described in Notice 2006–85, these temporary regulations are generally applicable to transactions occurring on or after September 22, 2006, with limited transition relief. With respect to those rules addressing transactions described in Notice 2007–48, these temporary regulations are generally applicable to transactions occurring on or after May 31, 2007, with limited transition relief. Other rules included in these temporary regulations are generally applicable to transactions occurring on or after May 23, 2008, with limited transition relief. See § 1.367(b)–14T(e).

No inference is intended as to the potential applicability of other Code or regulatory provisions or judicial doctrines (including substance over form) to transactions described in these temporary regulations.

Effect on Other Documents

The following publications are obsolete as of May 27, 2008:

Notice 2006–85 (2006–41 IRB 677).

Notice 2007–48 (2007–25 IRB 1428).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. A delayed effective date would be inappropriate because the purpose of this regulation is to address transactions that the IRS and Treasury Department believe raise serious policy concerns. Accordingly, good cause is found for dispensing with notice and public comment pursuant to 5 U.S.C. 553(b) and (c) and with a delayed effective date pursuant to 5 U.S.C. 553(d). Furthermore, under section 7805(b)(1)(C) of the Code, an effective date earlier than the date this regulation is filed with the **Federal Register** is appropriate because prior notices substantially described the rules contained in this regulation. For applicability of the Regulatory Flexibility Act, see the cross-referenced notice of proposed rulemaking published elsewhere in this **Federal Register**. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Request for Comments

For information on how to submit comments or request a public hearing, see the section ''Comments and Requests for a Public Hearing,'' set forth in the notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

Drafting Information

The principal author of these regulations is Daniel McCall of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1**. The authority citation for part 1 is amended by adding new entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.367(a)–3T(b)(2)(i)(C) also issued under 26 U.S.C. 367(a) and (b). * * *

Section 1.367(b)–14T also issued under 26 U.S.C. 367(b). * * *

■ **Par. 2**. Section 1.367(a)–3 is amended by revising the first sentence in paragraph (b)(2)(i) and adding new paragraph (b)(2)(i)(C) to read as follows:

§ 1.367(a)–3 Treatment of transfers of stock or securities to foreign corporations.

* * * * *

(b) * * *

(2) * * *

(i) * * * A transfer of stock or securities described in section 367(a) or the regulations thereunder as well as in section 367(b) or the regulations thereunder shall be subject concurrently to sections 367(a) and (b) and the respective regulations thereunder, except as provided in paragraph (b)(2)(i)(A) through (C) of this section. * * *

(C) [Reserved]. For further guidance, see § 1.367(a)–3T(b)(2)(i)(C).

* * * * *

■ **Par. 3**. Section 1.367(a)–3T is amended by revising paragraphs (a) through (d) and (f)(3), to read as follows:

§ 1.367(a)–3T Treatment of transfers of stock or securities to foreign corporations (temporary).

(a) through (b)(2)(i)(B) [Reserved]. For further guidance, see § 1.367(a)–3(a) through (b)(2)(i)(B).

(C) If in connection with a transaction described in § 1.367(b)–14T, one or more U.S. persons transfer stock of T, as defined in § 1.358–6(b)(1)(iii), to a corporation in a transfer described in section 367(a), and the amount of gain in the T stock that would otherwise be recognized under section 367(a) is less than the deemed distribution that would result from the adjustments made under § 1.367(b)–14T and that would be treated as a dividend under section 301(c)(1), then section 367(b), and not section 367(a), shall apply to such transaction. This paragraph (b)(2)(i)(C) applies to transfers occurring on or after May 23, 2008.

(b)(2)(ii) through (d) [Reserved]. For further guidance, see § 1.367(a)–3(b)(2)(ii) through (d).

* * * * *

(f) * * *

(3) *Expiration date.* The applicability of § 1.367(a)–3T(b)(2)(i)(C) expires on May 23, 2011. The applicability of § 1.367(a)–3T(e) and (f)(1) and (f)(2) expires on February 1, 2010.

■ **Par. 4.** Section 1.367(b)–2 is amended by revising paragraph (l)(8) to read as follows:

§ 1.367(b)–2 Definitions and special rules.

* * * * *

(l) * * *

(8) *Earnings and profits.* For purposes of §§ 1.367(b)–7 and 1.367(b)–9, the term *earnings and profits* means post-1986 undistributed earnings, pre-1987 accumulated profits, and pre-1987 section 960 earnings and profits.

* * * * *

■ **Par. 5.** Section 1.367(b)–13 is amended by redesignating paragraph (a)(2)(ii) as paragraph (a)(2)(iii), revising newly designated paragraph (a)(2)(iii), and adding a new paragraph (a)(2)(ii) to read as follows:

§ 1.367(b)–13 Special rules for determining basis and holding period.

(a) * * *

(2) * * *

(ii) The terms *P, S,* and *T* have the meanings set forth in § 1.358–6(b)(1)(i), (ii), and (iii), respectively.

(iii) A triangular reorganization is a reorganization described in § 1.358–6(b)(2)(i), (ii), or (iii) or in sections 368(a)(1)(G) and (a)(2)(D) (a forward triangular merger, triangular C reorganization, reverse triangular merger, or triangular G reorganization, respectively).

* * * * *

■ **Par. 6.** Section 1.367(b)–14T is added to read as follows:

§ 1.367(b)–14T Acquisition of parent stock for property in triangular reorganizations (temporary).

(a) *In general*—(1) *Scope and purpose.* This section applies to triangular reorganizations where P or S (or both) is foreign and, in connection with the reorganization, S acquires, in exchange for property (as defined in this section), all or a portion of the P stock that is used to acquire the stock or assets of T. This section may apply to a reorganization regardless of whether P controls S (within the meaning of section 368(c)) at the time S acquires the P stock that is used to acquire the stock or assets of T. The purpose of this section is to prevent what is in effect a distribution of property to P without the application of provisions otherwise applicable to property distributions, when in connection with a triangular

reorganization S acquires, in exchange for property, all or a portion of the P stock used in the reorganization.

(2) *Definitions.* For purposes of this section, the following definitions apply:

(i) The terms *P, S,* and *T* have the meanings set forth in § 1.358–6(b)(1)(i), (ii), and (iii), respectively.

(ii) In general, the term *property* has the meaning set forth in section 317(a). Notwithstanding section 357(a), such term includes any liability assumed by S in exchange for the P stock used to acquire the stock or assets of T. Such term also includes any S stock used by S to acquire P stock from a person other than P.

(iii) The term *triangular reorganization* means a reorganization described in § 1.358–6(b)(2) or in section 368(a)(1)(G) and (a)(2)(D).

(b) *General rules*—(1) *Deemed distribution.* If this section applies, adjustments shall be made that have the effect of a distribution of property from S to P under section 301 (deemed distribution). The amount of the deemed distribution shall equal the amount of money plus the fair market value of other property transferred, in connection with the reorganization, by S in exchange for the P stock used to acquire the stock or assets of T in the triangular reorganization. Additional adjustments shall be made under paragraph (b)(3) of this section to the extent S acquires, in exchange for property, P stock from a person other than P.

(2) *Timing in the case of acquisitions from P.* To the extent S acquires P stock from P in exchange for property, the deemed distribution described in paragraph (b)(1) of this section shall be treated as a transaction separate from, and occurring immediately before, the triangular reorganization. Therefore, P shall not be treated as receiving the property from S in exchange for P stock. The transfers of P stock in the triangular reorganization shall be subject to generally applicable provisions. See, for example, § 1.1032–2.

(3) *Timing and deemed contribution in the case of acquisitions from persons other than P.* To the extent S acquires P stock from a person other than P in exchange for property (the purchase), then immediately following the deemed distribution described in paragraph (b)(1) of this section, adjustments shall be made that have the effect of a contribution by P to S (deemed contribution) of the property deemed distributed by S to P under paragraph (b)(1) of this section. If P controls S (within the meaning of section 368(c)) at the time of the purchase, the deemed distribution and deemed contribution shall be treated as separate transactions occurring immediately before the purchase. If P does not control S (within the meaning of section 368(c)) at the time of the purchase, the deemed distribution and deemed contribution shall be treated as separate transactions occurring immediately after P acquires control of S. Other provisions, such as sections 304, 354, 358 and 368, shall apply after the adjustments made pursuant to paragraph (b)(1) of this section and this paragraph.

(4) *Example.* The rules of this paragraph (b) are illustrated by the following example:

(i) *Facts.* P, a publicly traded domestic corporation, owns all of the outstanding stock of FS, a foreign corporation, and all of the outstanding stock of US1, a domestic corporation that is a member of the P consolidated group. US1 owns all of the outstanding stock of FT, a foreign corporation, the fair market value of which is $100x. FS purchases $100x of P stock on the open market for cash. Pursuant to foreign law, FT merges with and into FS in a triangular reorganization described in section 368(a)(1)(A) by reason of section 368(a)(2)(D). US1 exchanges all the outstanding stock of FT for the stock of P purchased by FS on the open market for $100x cash.

(ii) *Analysis.* The triangular reorganization is described in paragraph (a)(1) of this section. Therefore, pursuant to paragraphs (b)(1) and (b)(3) of this section, FS is treated as distributing $100x to P under section 301. Immediately after such deemed distribution, P is deemed to contribute to FS the $100x that was deemed distributed to P. The deemed distribution and deemed contribution are treated as separate transactions occurring immediately before FS's purchase of the P stock used in the triangular reorganization.

(c) *Collateral adjustments.* This paragraph (c) provides rules for the treatment of a deemed distribution or deemed contribution resulting under paragraph (b)(1) or (b)(3) of this section.

(1) *Deemed distribution.* A deemed distribution of property described in paragraph (b)(1) of this section shall be treated as a distribution of property for all purposes of the Internal Revenue Code. For example, under section 301(c) the distribution may constitute a dividend to the extent of the earnings and profits of S, a return of basis, or gain from the sale or exchange of property, as appropriate. In addition, sections 902 and 959 may apply when S is foreign, and sections 897, 1442, and 1445 may apply when S is domestic.

(2) *Deemed contribution.* A deemed contribution of property described in paragraph (b)(3) of this section shall be treated as a contribution of property for all purposes of the Internal Revenue Code. For example, appropriate adjustments to P's basis in the S stock and other affected items shall be made according to applicable provisions.

(d) *Special rule.* Appropriate adjustments shall be made pursuant to this section if, in connection with a triangular reorganization, a transaction is engaged in with a view to avoid the purpose of this section as described in paragraph (a)(1) of this section. For example, if S is formed or availed of with a view to avoid the purpose of this section, the earnings and profits of S may be deemed to include the earnings and profits of a corporation related to S (within the meaning of section 267(b)).

(e) *Effective/applicability date*—(1) *Acquisitions of P stock from P or related persons.* Except as otherwise provided in this paragraph (e), this section applies to triangular reorganizations described in paragraph (a)(1) of this section, to the extent S acquires the P stock from P or from a person related to P or S within the meaning of section 267(b) or 707(b), occurring on or after September 22, 2006. This section, however, shall not apply to triangular reorganizations described in paragraph (a)(1) of this section, to the extent S acquires the P stock from P or from a person related to P or S within the meaning of section 267(b) or 707(b), completed on or after September 22, 2006, pursuant to a written agreement that was (subject to customary conditions) binding before September 22, 2006, and all times afterward.

(2) *Acquisitions of P stock from persons other than P*—(i) *General rule.* Except as otherwise provided in this paragraph (e), this section applies to triangular reorganizations described in paragraph (a)(1) of this section, to the extent S acquires the P stock from a person other than P that is not related to P or S within the meaning of section 267(b) or 707(b) (unrelated person), occurring on or after May 31, 2007.

(ii) *Binding commitment exception.* This section shall not apply to triangular reorganizations described in paragraph (a)(1) of this section, to the extent S acquires the P stock from an unrelated person, pursuant to a written agreement that was (subject to customary conditions) binding before May 31, 2007, and all times afterward, but only to the extent that—

(A) S acquired the P stock from an unrelated person before May 31, 2007; or

(B) S had a commitment to acquire the P stock from an unrelated person pursuant to a written agreement that was (subject to customary conditions) binding before May 31, 2007, and all times afterward, or pursuant to a tender offer announced before May 31, 2007, that is subject to section 14(d) of the

Securities and Exchange Act of 1934 (15 U.S.C. 78n(d)(1)) and Regulation 14(D) (17 CFR 240.14d–1 through 240.14d–101) or that is subject to comparable foreign laws.

(3) *Application of special rule*—(i) *General rule.* Except as provided in paragraph (e)(3)(ii) of this section, paragraph (d) of this section applies to triangular reorganizations described in paragraph (a)(1) of this section occurring on or after May 31, 2007.

(ii) *Binding commitment exception.* Paragraph (d) of this section shall not apply to triangular reorganizations described in paragraph (a)(1) of this section entered into pursuant to a written agreement that was (subject to customary conditions) binding before May 31, 2007, and all times afterward, but only to the extent that—

(A) S acquired the P stock before May 31, 2007; or

(B) S had a commitment to acquire the P stock from an unrelated person pursuant to a written agreement that was (subject to customary conditions) binding before May 31, 2007, and all times afterward, or pursuant to a tender offer announced before May 31, 2007, that is subject to section 14(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78n(d)(1)) and Regulation 14(D) (17 CFR 240.14d–1 through 240.14d–101) or that is subject to comparable foreign laws.

(4) *Treatment of S stock as property*—(i) *General rule.* Except as provided in paragraph (e)(4)(ii) of this section, the treatment of S stock as property under paragraph (a)(2)(ii) of this section applies to triangular reorganizations described in paragraph (a)(1) of this section occurring on or after *May 23, 2008.*

(ii) *Binding commitment exception.* The treatment of S stock as property under paragraph (a)(2)(ii) of this section shall not apply to triangular reorganizations described in paragraph (a)(1) of this section occurring on or after May 23, 2008 entered into pursuant to a written agreement that was (subject to customary conditions) binding before May 23, 2008 and all times afterward, but only to the extent that—

(A) S acquired the P stock before *May 23, 2008;* or

(B) S had a commitment to acquire the P stock from an unrelated person pursuant to a written agreement that was (subject to customary conditions) binding before May 23, 2008 and all times afterward, or pursuant to a tender offer announced before May 23, 2008, that is subject to section 14(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78n(d)(1)) and Regulation 14(D) (17 CFR 240.14d–1 through 240.14d–101) or that is subject to comparable foreign laws.

(5) *Expiration.* The applicability of this section expires May 23, 2011.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: May 16, 2008.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E8–11653 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 261

RIN 0596–AC30

Clarifying Prohibitions for Failure To Maintain Control of Fires That Damage National Forest System Lands

AGENCY: Forest Service, USDA.

ACTION: Notice of final rule.

SUMMARY: This final rule revises regulations to establish a new prohibition for starting and negligently failing to maintain control of a prescribed fire. Proof of criminal negligence is required for this offense. The rule also clarifies that the prohibition for causing and failing to maintain control of all other fires is a strict liability offense, not requiring proof of criminal intent. In implementing the National Fire Plan, the Forest Service has encouraged adjacent landowners to develop integrated fire management plans for the use of prescribed fire for the restoration and protection of private lands adjacent to National Forest System lands. Without these changes, adjacent landowners might be discouraged from using prescribed fire.

DATES: This rule is effective June 26, 2008.

ADDRESSES: The public may inspect comments received at USDA Forest Service, State and Private Forestry, 1400 Independence Avenue, SW., Washington, DC. Visitors are encouraged to call ahead to 202–205–1331 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Denny Truesdale, State and Private Forestry, 202–205–1588. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The following outline contains the contents of the **SUPPLEMENTARY INFORMATION** section of this final rule:

Background
Regulatory Certifications
  Regulatory Impact
  Environmental Impact
  Federalism
  Consultation With Tribal Governments
  No takings Implications
  Controlling Paperwork Burdens on the Public
  Energy Effects
  Civil Justice Reform
  Unfunded Mandates
List of Subjects in Part 261

Background

A new paragraph (c) is added to section 261.1, Scope, to clarify that unless criminal intent (''*mens rea*'') is expressly required in the provision setting forth the offense, strict liability would apply. Whether criminal intent is a required element of an offense is a question of statutory construction. Where a statute or regulation does not expressly require criminal intent, ''silence on this point by itself does not necessarily suggest that Congress intended to dispense with the conventional *mens rea* element * * *'' *Staples* v. *United States*, 511 U.S. 600, 605 (1994). As a general rule, absent a clear indication of legislative intent, courts require proof of intent for criminal offenses. See *Id.* at 605, for a discussion of cases that support this well-established principle.

However, the general presumption that some guilty intent or purpose is required does not apply to ''public welfare offenses.'' These are offenses that typically impose penalties to serve as an effective means of regulation. *Id.* At 606 (''[i]n construing such statutes, we have inferred from silence that Congress did not intend to require proof of *mens rea* to establish an offense''). Public welfare offenses are those that ''are not of the nature of positive aggressions or invasions, with which the common law so often dealt, but are in the nature of neglect where the law requires care, or inaction where it imposes duty.'' *Morissette* v. *United States*, 342 U.S. 246, 255 (1952). Public welfare offenses ''render[s] criminal a type of conduct that a reasonable person should know is subject to stringent public regulation and may seriously threaten the community's health and safety.'' *Liparota* v. *United States*, 471 U.S. 419, 426 (1985). A person should know that the use of Federal lands is subject to stringent regulation, and that

action or inaction in violation of such regulation can cause irreparable harm to the public or the land and its resources.

The clarification to section 261.1 states the agency's long-standing interpretation of its criminal prohibitions as public welfare offenses and confirms that, as such, they generally are strict liability offenses. Proof of criminal intent is required only where expressly provided by the specific prohibition.

To this end, section 261.5(e) is revised to remove the term ''allowing.'' Section 261.5(e) currently prohibits ''allowing a fire to escape from control.'' The term ''allowing'' has been interpreted differently by courts in some cases to require proof of criminal intent. *United States* v. *Semenza*, 835 F.2d 223 (9th Cir. 1987); *United States* v. *Osgudthorpe*, 13 F. Supp.2d 1215 (D. Utah, 1998). In other cases, courts have found that the term does not require proof of criminal intent. *United States* v. *Larson*, 746 F.2d 455 (8th Cir. 1984), citing *United States* v. *Wilson*, 438 F.2d 525 (9th Cir. 1971). The revision clarifies that the prohibition in section 261.5(e) is a strict liability offense.

In addition to removing the term ''allowing,'' section 261.5(e) is also revised to limit its application to fires that are not prescribed fires. As clarified, the prohibition is a strict liability offense for causing and failing to maintain control of a fire that is not a prescribed fire that damages National Forest System (NFS) lands.

Section 261.5 also is revised to add a new prohibition to address prescribed fires. Paragraph (g) is added to prohibit the negligent failure to maintain control of a prescribed fire that damages NFS lands. This prohibition is not a strict liability offense. It requires proof that the offender acted with criminal negligence. Section 261.2 is revised to add a definition of ''prescribed fire.'' The term is defined to mean a planned and intentionally lit fire allowed to burn within the applicable requirements of Federal or State laws, regulations, or permits. Many States do not have laws establishing requirements for prescribed fires. Under the definition, if a prescribed fire is allowed under applicable law (even if the law does not limit how the burn is to be conducted) and the fire was intentionally lit and planned to some extent, section 261.5(g) applies and the Federal government would need to prove that the defendant acted with criminal negligence.

The distinction between failure to maintain control of a prescribed fire (requiring proof of criminal negligence) and another fire (requiring no proof of criminal intent) is necessary to support efforts to reduce hazardous fuels on properties adjacent to National Forest System lands. These efforts are intended to restore ecosystems and, by doing so, protect communities in the wildland urban interface. In implementing the National Fire Plan, the Forest Service and the Department of the Interior land managing agencies have increased the amount of prescribed burning on lands under their jurisdiction. The agencies also have encouraged adjacent landowners to develop integrated fire management plans, including the use of prescribed fire, for the restoration and protection of private lands. If the prohibition for lighting and failing to maintain a prescribed fire were a strict liability offense, adjacent landowners might be discouraged from using prescribed fire as a tool on their lands out of concern that, if the fire were to escape control, they could be cited for a criminal violation without regard to whether they acted with criminal intent. New paragraph (g) alleviates this impediment.

Response to Comments

A 60-day comment period on the proposed rule was initiated on April 2, 2007 (72 FR 15641). Several respondents replied. One respondent had two recommendations, another respondent is a timber industry associate, and the other respondents' comments were outside the scope of this rule.

The first respondent had two recommendations. The first was a change in recovering damages from the Forest Service during fire suppression actions. This would require legislative changes to the Federal Tort Claim Act and is not part of this rule. The second recommendation was for changes to a State of Oregon statute and is also not covered by this rule.

The second respondent had several comments. The first: ''* * * this proposed rule sets a higher bar for finding adjacent landowners liable for damage caused by 'prescribed fires' * * * while defining 'all other fires' as strict liability offenses. In short, the rule would allow the Forest Service to hold a neighboring landowner, or their contractors, liable for any escaped fire—even if their conduct in the burning activity was fully legal and without criminal intent.'' *The respondent includes an example:* ''All fires—broadcast, spot burning, jackpot burning, pile burning—should not be defined as subject to this proposed rule, if they were intentionally started and are compliant with federal laws, state and local laws, regulations, and permits.''

All of the examples used by the respondent are included under the definition for a prescribed fire in this rule. The standard of negligence would apply, not strict liability, since an intentionally lit fire, whether a broadcast burn or any of the other ignition techniques listed that is fully in compliance with state and/or local laws meets the definition of a prescribed burn.

The respondent states: ''The only cases where negligence applies should be those where fires started illegally.'' This is actually the opposite of the intent of the rule. Negligence requires a higher standard of proof and is used for fires started legally—for example, prescribed fires that are lit in compliance with applicable laws. For all other fires, the standard of strict liability is applied.

There is a comment on Forest Service liability to private landowners which the respondent notes is outside the scope of this rule.

Another comment covers the use of this rule regarding fires started by a purchaser of a timber sale contract on National Forests. Nothing in the rule supercedes the requirements, terms, or clauses in a timber sale contract, or any other type of contract, including a contract for prescribed fire on National Forest System land. The respondent cites timber sale contract standard clause B7.5 that sets the purchaser's responsibility for fires caused by negligence or fault. This rule does not change those responsibilities in either current or future contracts, nor will the rule supercede any state law in regards to the collection or recovery of suppression costs.

No changes to the rule are made in response to the comments from the two respondents.

Regulatory Certifications

Regulatory Impact

This rule has been reviewed under USDA procedures and Executive Order (E.O.) 12866 on Regulatory Planning and Review. The Office of Management and Budget (OMB) has determined that this is a non-significant rule as defined by E.O 12866. This rule will not have an annual effect of $100 million or more on the economy, nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor state or local governments. This rule would not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this rule will not alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations

of recipients of such programs. Therefore, it has been determined that this rule is not an economically significant regulatory action.

This rule also has been considered in light of the Regulatory Flexibility Act, as amended, (5 U.S.C. 601 *et seq.*). In promulgating this rule, publication of an advance notice of proposed rulemaking was not required by law. Further, it has been determined that this rule will not have a significant economic impact on a substantial number of small business entities as defined by that act. Therefore, it has been determined that preparation of a regulatory flexibility analysis is not required for this rule.

Environmental Impact

Section 31.11a of Forest Service Handbook 1909.15 (69 FR 40591; July 6, 2004) excludes from documentation in an environmental assessment or environmental impact statement ''civil and criminal law enforcement and investigative activities.'' This rule clearly falls within this category of actions and the agency has determined that no extraordinary circumstances exist which would require preparation of an environmental assessment or an environmental impact statement. Moreover, this rule itself has no impact on the human environment. Therefore, it has been determined that preparation of an environmental assessment or an environmental impact statement is not required in promulgating this rule.

Federalism

The agency has considered this rule under the requirements of E.O. 12612 and has made a preliminary assessment that the rule will not have substantial direct effects on the states, on the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment on federalism implications is necessary at this time.

Consultation With Tribal Governments

This rule has been reviewed under E.O. 13175 of November 6, 2000, ''Consultation, and Coordination with Indian Tribal Governments.'' This rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Nor does this rule impose substantial direct compliance costs on Indian tribal governments or preempt tribal law. Therefore, it has been determined that this rule does not have tribal implications requiring advance consultation with Indian tribes.

No Takings Implications

This rule has been reviewed for its impact on private property rights under E. O. 12630. It has been determined that this rule does not pose a risk of taking private property; in fact, the rule honors access to private property pursuant to statute and to outstanding or reserved rights.

Controlling Paperwork Burdens on the Public

This rule does not contain any record keeping or reporting requirements or other information collection requirements as defined in 5 CFR Part 1320 and, therefore, imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and implementing regulations at 5 CFR Part 1320 do not apply.

Energy Effects

This rule has been reviewed under E.O. 13211 of May 18, 2001, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' This rule will not have a significant adverse effect on the supply, distribution, or use of energy. Nor has the Office of Management and Budget designated this rule as a significant energy action. Therefore, it has been determined that this rule does not constitute a significant energy action requiring the preparation of a Statement of Energy Effects.

Civil Justice Reform

This rule revision has been reviewed under E.O. 12988 of February 5, 1996, Civil Justice Reform. The revision: (1) Preempts all state and local laws and regulations that are found to be in conflict with or that would impede its full implementation; (2) does not retroactively affect existing permits, contracts, or other instruments authorizing the occupancy and use of National Forest System lands, and (3) does not require administrative proceedings before parties may file suit in court challenging these provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of this rule on state, local, and tribal governments, and on the private sector. This rule does not compel the expenditure of $100 million or more by any state, local, or tribal government, or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

List of Subjects in 36 CFR Part 261

Law enforcement, National forests.

■ Therefore, for the reasons set forth in the preamble, the Forest Service amends Part 261 of Title 36 of the Code of Federal Regulations as follows:

PART 261—PROHIBITIONS

■ 1. The authority citation for part 261 continues to read:

Authority: 7 U.S.C. 1011(f); 16 U.S.C. 472, 551, 620(f), 1133(c), (d)(1), 1246(i).

Subpart A—General Prohibitions

■ 2. In § 261.1, add paragraphs (c) and (d) to read as follows:

§ 261.1 Scope.

* * * * *

(c) Unless an offense set out in this part specifies that intent is required, intent is not an element of any offense under this part.

(d) None of these prohibitions apply to any person engaged in fire suppression actions.

■ 3. In § 261.2, add a definition for ''Prescribed fire'' to read as follows:

§ 261.2 Definitions.

* * * * *

Prescribed fire means a planned and intentionally lit fire allowed to burn within the requirements of Federal or State laws, regulations, or permits.

* * * * *

■ 4. Amend § 261.5 by revising paragraph (e) and by adding paragraph (g) to read as follows:

§ 261.5 Fire.

* * * * *

(e) Causing and failing to maintain control of a fire that is not a prescribed fire that damages the National Forest System.

* * * * *

(g) Negligently failing to maintain control of a prescribed fire on Non-National Forest System lands that damages the National Forest System.

Dated: May 19, 2008.

Mark Rey,

Under Secretary, NRE.

[FR Doc. E8–11731 Filed 5–23–08; 8:45 am]

BILLING CODE 3410–11–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 60

[EPA–R08–OAR–2007–0617; FRL–8570–2]

Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for North Dakota; Revisions to the Air Pollution Control Rules and Alternative Monitoring Plan for Mandan Refinery; Delegation of Authority for New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation of authority.

SUMMARY: EPA is taking direct final action approving revisions to the State Implementation Plan (SIP) as submitted by the Governor of North Dakota with a letter dated March 8, 2007. The revisions affect certain air pollution control rules regarding general provisions, open burning restrictions, permitting, and fugitive emissions. In addition, we are approving a revision to a chapter of the SIP regarding an alternative monitoring plan for the Tesoro Mandan Refinery. This action is being taken under section 110 of the Clean Air Act. EPA is also providing notice that on August 22, 2007, North Dakota was delegated authority to implement and enforce certain New Source Performance Standards as in effect on January 31, 2006.

DATES: This action is effective on July 28, 2008 without further notice, unless EPA receives adverse comment by June 26, 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–2007–0617, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- E-mail: *Platt.Amy@epa.gov.*
- *Fax*: (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** section if you are faxing comments).
- *Mail:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 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–2007–0617. 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. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* 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 *http://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 *http://www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, 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: Amy Platt, EPA Region 8, at (303) 312–6449, or *Platt.Amy@epa.gov.*

SUPPLEMENTARY INFORMATION:

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II. Background
III. Revisions in the March 8, 2007 Submittal That Are the Subject of This Document
IV. Delegation of Authority
V. Section 110(l)
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VII. Statutory and Executive Order Review

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 *ND* mean the State of North Dakota, unless the context indicates otherwise.

(v) The initials NDDH mean or refer to the North Dakota Department of Health.

I. General Information

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

1. *Submitting CBI.* Do not submit this information to EPA through *http://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. Background

The Act requires States to follow certain procedures in developing implementation plans and plan revisions for submission to us. Sections 110(a)(2) and 110(l) of the Act provide that each implementation plan must be adopted after reasonable notice and public hearing.

To provide for public comment, the North Dakota Department of Health (NDDH), after providing notice, held a public hearing on May 4, 2006 to consider the revisions to the State Implementation Plan (SIP) and Air Pollution Control Rules. Following the public hearing, comment period, and legal review by the North Dakota Attorney General's Office, NDDH adopted the revisions. The revisions to the Air Pollution Control Rules became effective on January 1, 2007 and the revision to the SIP chapter regarding an alternative monitoring plan for the Tesoro Mandan Refinery became effective on February 27, 2007. The North Dakota Governor submitted the SIP revisions to us with a letter dated March 8, 2007.

III. Revisions in the March 8, 2007 Submittal That Are the Subject of This Document

The revisions in the March 8, 2007 submittal to be addressed in this document pertain to certain portions of the North Dakota Air Pollution Control Rules regarding general provisions, open burning, permitting, and fugitive emissions. These revisions involve the following chapters of the North Dakota Administrative Code (N.D.A.C.): 33–14–01 General Provisions; 33–15–04 Open Burning Restrictions; 33–15–14 Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate (certain sections specific to permit to construct); and 33–15–17 Restriction of Fugitive Emissions. In addition, the March 8, 2007 submittal included a revision to SIP Chapter 8, Source Surveillance, to provide an alternative monitoring plan for the Tesoro Mandan Refinery.

A. Chapter 33–15–01, N.D.A.C., General Provisions

Sections 33–15–01–04 and 33–15–01–05 were revised. In section 33–15–01–04, the baseline date for the incorporation by reference of the Federal definition of ''volatile organic compounds,'' located at 40 CFR 51.100(s), was updated to January 1, 2006. In section 33–15–01–05, a slight editorial change was made to the meaning of the abbreviation for PM_{10}. These revisions were made to match Federal requirements and are approvable.

B. Chapter 33–15–04, N.D.A.C., Open Burning Restrictions

Sections 33–15–04–01 and 33–15–04–02 were revised. Section 33–15–04–01, Refuse Burning Restrictions, was revised to clarify that the burning of trade waste is not allowed. As defined in the General Provisions chapter (33–15–01–04, N.D.A.C.), trade waste means solid, liquid, or gaseous waste material resulting from construction or the conduct of any business, trade, or industry, or any demolition operation, including wood, wood containing preservatives, plastics, cartons, grease, oil, chemicals, and cinders.

In section 33–15–04–02, Permissible Open Burning, a reference to the North Dakota Rural Fire Contingency Plan was removed since this document no longer exists. In addition, changes were made to limit approval of open burning to abate a fire hazard to the NDDH or its designee, as well as to require State and Federal agencies that conduct prescribed burning to submit an annual report upon request by NDDH. Finally, a notification requirement was replaced by a requirement that prohibits open burning when a burning ban is declared by State or local officials.

These changes clarified existing rules, eliminated out-of-date references, and added reporting requirements for State and Federal prescribed burning. These revisions are approvable.

C. Chapter 33–15–14, N.D.A.C., Designated Air Contaminant Sources, Permit To Construct, Minor Source Permit To Operate, Title V Permit To Operate (Certain Sections Specific To Permit To Construct)

In the Permit to Construct section, 33–15–14–02, subdivision 33–15–14–02.13.c was revised. These revisions relate to certain sources that will now be exempt from requirements for a permit to construct. Specifically, an exemption was added for any internal combustion engine, or multiple engines at the same facility, with a total combined actual emission rate of 5 tons per year or less of any air contaminant for which an ambient air quality standard has been promulgated in section 33–15–02–04. Given that this revision reduces the stringency of the rule, EPA requested a demonstration that the revision will not interfere with attainment and maintenance of the National Ambient Air Quality Standards (NAAQS), Prevention of Significant Deterioration of Air Quality Increments (PSD Increments), or any other requirement of the Clean Air Act.

In a July 7, 2006 letter from Terry O'Clair, NDDH, to Richard Long, EPA, NDDH provided results from a SCREEN3 [1] modeling run which shows that a typical internal combustion engine emitting 5 tons a year of nitrogen dioxide (NO_2) will not violate the NAAQS or PSD increments. Based on AP–42 emission factors for this type of engine, NO_2 has the larger emission rate and would be the pollutant of concern, while CO and PM emission rates are much lower for such engines and would not be expected to threaten the NAAQS or PSD increments. As a result, EPA is satisfied that this revision will not adversely impact the NAAQS or PSD increments. Therefore, this revision is approvable.

In addition, subdivision 33–15–14–02.13.o was revised to remove a reference to subdivision n of subsection 1 of section 33–15–14–06. Section 33–15–14–06, subsection 1, contains the State's definitions for the Title V operating permits program. The previous reference to subdivision n was to the definition of ''major source,'' and the purpose of the reference was to define oil and gas production facilities that either were or were not major sources. Now the definition of ''major

[1] SCREEN3 is a single source Gaussian plume screening model which provides, among other things, maximum ground-level concentrations for point, area, flare, and volume sources.

source'' is found at subdivision o. Rather than include a reference to a new subdivision letter that might change again, the State changed the reference to be at the more general subsection level. This was purely a housekeeping change and is approvable.

D. Chapter 33–15–17, N.D.A.C., Restriction of Fugitive Emissions

A provision was added to section 33–15–17–02 to restrict fugitive particulate emissions that would have an adverse impact on visibility on any Class I Federal area. The NDDH made this revision to help prevent degradation of visibility in Theodore Roosevelt National Park and Lostwood Wilderness Area due to fugitive emissions. This revision is approvable.

E. SIP Chapter 8, ''Source Surveillance,'' Section 8.3.1, ''Continuous Opacity Monitoring for Fluid Bed Catalytic Cracking Units: Tesoro Refining and Marketing Co., Mandan Refinery''

The Tesoro Refining and Marketing Company (Tesoro) currently operates a fluidized bed catalytic cracking unit (FCCU) at the Mandan Refinery. The refinery was constructed in the 1950s and is required to continuously monitor the opacity of emissions from the FCCU according to 40 CFR Part 51, Appendix P, and North Dakota SIP Chapter 8, Source Surveillance. In May 1977, the NDDH issued an order requiring the installation and operation of continuous opacity monitoring (COM) equipment for emissions from the FCCU, and the opacity has been continuously monitored since the compliance date of September 30, 1978.

In 2001, Tesoro entered into a Consent Decree with EPA to settle allegations of noncompliance under the Prevention of Significant Deterioration Program. As part of this settlement, Tesoro was required to control SO_2 emissions from the FCCU. Tesoro installed a wet scrubber and wet electrostatic precipitator (ESP) to comply with the terms of the Consent Decree. The large amount of moisture from the control system has made monitoring of the opacity of emissions using COM equipment infeasible. Specifically, water droplets contained in the flue gas could potentially result in the monitor overstating the true opacity. Therefore, Tesoro requested alternative monitoring procedures and requirements in accordance with 40 CFR Part 51, Appendix P, Section 6.0. The NDDH and EPA agreed with Tesoro that such alternative monitoring procedures and requirements were warranted given that the excess moisture in the stack from the wet scrubber interferes with the COM and makes the COM data inaccurate.

As a result, NDDH revised SIP Chapter 8, ''Source Surveillance,'' Section 8.3, ''Continuous Emission Monitoring Requirements for Existing Stationary Sources, including amendments to Permits to Operate and Department Order.'' The revision provided for a new Section 8.3.1, ''Continuous Opacity Monitoring for Fluid Bed Catalytic Cracking Units: Tesoro Refining and Marketing Co., Mandan Refinery.'' This new section provides alternative monitoring procedures and requirements for the Tesoro Mandan refinery. Tesoro has demonstrated through Method 9 measurements that the FCCU will easily comply with the visible emissions limit of 40% opacity when the scrubber flow rate is at least 2511 gallons per minute (gpm). Therefore, the alternative monitoring plan requires that liquid flow through the wet scrubber at 2511 gpm, or more, on an hourly average basis. If the flow rate is less than 2511 gpm, Tesoro must conduct a Method 9 test each day until the required flow rate is achieved.

In addition, Section 8.3.1 contains, among other things, the following requirements:

1. Tesoro must monitor the liquid flow rate through the wet gas scrubber on a continuous basis.
2. Tesoro must keep records of the liquid flow rate on a continuous basis, and keep such records for at least five years.
3. Tesoro must submit semi-annual deviations reports for the FCCU, listing any time period monitoring is not conducted as outlined in Section 8.3.1 and any time monitoring indicates the required flow rate is not attained. Tesoro must also submit an annual certification indicating compliance with the visible emissions limit.

EPA interprets these provisions such that a failure to maintain a liquid flow rate through the wet scrubber of at least 2511 gpm, one-hour average, is a violation of the SIP.

This alternative monitoring plan was finalized between Tesoro and NDDH on February 27, 2007, and approved by the director of EPA Region 8's Technical Enforcement Program in an August 24, 2007 letter from Cynthia Reynolds (on behalf of Martin Hestmark) to Ron W. Day, Tesoro Refining and Marketing Company. EPA is satisfied that this alternative monitoring plan will ensure Tesoro complies with the requirements of 40 CFR 51.214 and 40 CFR Part 51, Appendix P, to continuously monitor opacity emissions and will be adequate to ensure Tesoro complies with the SIP opacity limits that apply to the FCCU at the Mandan Refinery. Accordingly, this approval ratifies the Region 8 Technical Enforcement Program's approval of the alternative monitoring procedures and requirements reflected in new Section 8.3.1 of the North Dakota SIP.

IV. Section 110(l)

Section 110(l) of the Clean Air Act 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 the National Ambient Air Quality Standards (NAAQS) or any other applicable requirements of the Act. There are no nonattainment areas in North Dakota. The revisions to the general provisions, open burning restrictions, and fugitive emissions provisions are consistent with Federal requirements, clarifying in nature, and will not interfere with requirements of the Act related to administrative or procedural provisions. Although the revision to the permitting provisions reduces the stringency of the rule, the State has adequately demonstrated through modeling that it will not adversely impact the NAAQS or PSD Increments. The revisions to SIP Chapter 8, regarding the alternative monitoring plan for Tesoro's Mandan refinery, adequately detail monitoring parameters, frequency of monitoring, wet gas scrubber flow rate requirements, recordkeeping, and reporting requirements to ensure that the refinery can comply with requirements to continuously monitor opacity emissions and will be adequate to ensure Tesoro complies with the SIP opacity limits that apply to the FCCU at the Mandan Refinery. Therefore, these revisions do not interfere with attainment or maintenance of the NAAQS or other applicable requirements of the Act.

V. Delegation of Authority

With a July 17, 2007 letter, the Governor of North Dakota requested delegation of authority for revisions to the New Source Performance Standards (NSPS), promulgated in Chapter 33–15–12, N.D.A.C. On August 22, 2007, delegation was given with the following letter:

Ref: 8P–AR

Terry O'Clair, Director, Division of Air Quality, Environmental Health Section, North Dakota Department of Health, 918 E. Divide Avenue, Bismarck, ND 58501–1947

Re: Delegation of Clean Air Act New Source Performance Standards

Dear Mr. O'Clair: With Governor Hoeven's July 17, 2007 letter and your July 18, 2007 letter, the State of North Dakota submitted revisions to its Air Pollution Control Rules and requested, among other things, direct delegation to implement and enforce the Federal New Source Performance Standards (NSPS). Specifically, North Dakota Administrative Code Chapter 33–15–12, Standards of Performance of New Stationary Sources, was revised to update the citation for the incorporated Federal NSPS in 40 CFR Part 60 as those in effect on January 31, 2006, with the exception of subparts Eb, L, M, N, Na, P, Q, R, S, and BB, which have not been adopted by the State.

Subsequent to States adopting NSPS regulations, EPA delegates the authority for the implementation and enforcement of those NSPS, so long as the States' regulations are equivalent to the Federal regulations. EPA reviewed the pertinent statutes and regulations of the State of North Dakota and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State. Therefore, pursuant to Section 111(c) of the Clean Air Act (Act), as amended, and 40 CFR Part 60, EPA hereby delegates its authority for the implementation and enforcement of the NSPS to the State of North Dakota as follows:

(A) Responsibility for all sources located, or to be located, in the State of North Dakota subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60. The categories of new stationary sources covered by this delegation are all NSPS subparts in 40 CFR Part 60, as in effect on January 31, 2006, with the exception of subparts Eb, L, M, N, Na, P, Q, R, S, and BB, which have not been adopted by the State. *Note this delegation does not include the emission guidelines in subparts Cb, Cc, Cd, Ce, BBBB, DDDD, and HHHH. These subparts require state plans, which are approved under a separate process pursuant to Section 111(d) of the Act.*

(B) Not all authorities of NSPS can be delegated to States under Section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) Approving equivalency determinations and alternative test methods, (2) decision-making to ensure national consistency, and (3) EPA rulemaking in order to implement. Enclosed with this letter is a list of examples of sections in 40 CFR Part 60 related to the NSPS being delegated in this letter that cannot be delegated to the State of North Dakota. Please note that the enclosed list has been updated since our July 27, 2005 delegation of authority to implement and enforce the NSPS to the State of North Dakota.

(C) The North Dakota Department of Health (NDDH) and EPA will continue a system of communication sufficient to guarantee that each office is always kept informed and current regarding compliance status of the subject sources and interpretation of the regulations.

(D) Enforcement of the NSPS in the State will be the primary responsibility of the NDDH. If the NDDH determines that such enforcement is not feasible and so notifies EPA, or where the NDDH acts in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Act, as amended, with respect to sources within the State of North Dakota subject to NSPS.

(E) The State of North Dakota will at no time grant a variance or waiver from compliance with NSPS regulations. Should NDDH grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable Federal regulation and initiate enforcement action against the source pursuant to section 113 of the Act. The granting of such relief by the NDDH shall also constitute grounds for revocation of the delegation by EPA.

(F) If at any time there is a conflict between a State regulation and a Federal regulation (40 CFR Part 60), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

(G) If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the NDDH.

(H) Acceptance of this delegation of presently promulgated NSPS does not commit the State of North Dakota to accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's July 17, 2007 letter.

(I) Upon approval of the Regional Administrator of EPA Region 8, the Director of NDDH may sub-delegate his authority to implement and enforce the NSPS to local air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

(J) The State of North Dakota must require reporting of all excess emissions from any NSPS source in accordance with 40 CFR Part 60.7(c).

(K) Performance tests shall be scheduled and conducted in accordance with the procedures set forth in 40 CFR Part 60 unless alternate methods or procedures are approved by the EPA Administrator. Although the Administrator retains the exclusive right to approve equivalent and alternate test methods as specified in 40 CFR Part 60.8(b)(2) and (3), the State may approve minor changes in methodology provided these changes are reported to EPA Region 8. The Administrator also retains the right to change the opacity standard as specified in 40 CFR Part 60.11(e).

(L) Determinations of applicability, such as those specified in 40 CFR Part 60.5 and review of plans, as provided for in 40 CFR Part 60.6, shall be consistent with those determinations already made and reviews conducted by the EPA.

(M) Alternatives to continuous monitoring procedures or reporting requirements, as outlined in 40 CFR Part 60.13(i), may be approved by the State only if the specific NSPS grants that authority. Otherwise, EPA retains the authority to review and approve such alternatives.

(N) If a source proposes to modify its operation or facility which may cause the source to be subject to NSPS requirements, the State shall notify EPA Region 8 and obtain a determination on the applicability of the NSPS regulations.

(O) Information shall be made available to the public in accordance with 40 CFR Part 60.9. Any records, reports, or information provided to, or otherwise obtained by, the State in accordance with the provisions of these regulations shall be made available to the designated representatives of EPA upon request.

(P) All reports required pursuant to the delegated NSPS should not be submitted to the EPA Region 8 office, but rather to the NDDH.

(Q) As 40 CFR Part 60 is updated, North Dakota should revise its regulations accordingly and in a timely manner and submit to EPA requests for updates to its delegation of authority.

EPA is approving North Dakota's request for NSPS delegation for all areas within the State except for the following: Lands within the exterior boundaries of the Fort Berthold, Fort Totten, Standing Rock and Turtle Mountain Indian Reservations; and any other areas which are ''Indian Country'' within the meaning of 18 U.S.C. 1151.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of North Dakota will be deemed to accept all the terms of this delegation. To inform the public of this delegation, EPA will publish an information notice in the **Federal Register** in which this letter will appear in its entirety.

If you have any questions on this matter, please contact me at (303) 312–6241 or Callie Videtich, Director of our Air and Radiation Program, at (303) 312–6434, or toll-free at 1–800–227–8917.

Sincerely,

Stephen S. Tuber

Assistant Regional Administrator
Office of Partnerships and
Regulatory Assistance
Enclosure
cc: Tom Bachman, NDDH

Enclosure to Letter Delegating NSPS in 40 CFR Part 60, Effective Through January 31, 2006, to the State of North Dakota

EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED

40 CFR subparts	Section(s)
A	60.8(b)(2) and (b)(3), and those sections throughout the standards that reference 60.8(b)(2) and (b)(3); 60.11(b) and (e); and 60.13(i).
Da	60.47Da.
Db	60.44b(f), 60.44b(g) and 60.49b(a)(4).
Dc	60.48c(a)(4).
Ec	60.56c(i), 60.8.
J	60.105(a)(13)(iii) and 60.106(i)(12).
Ka	60.114a.
Kb	60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).
O	60.153(e).
DD	60.302(d)(3).
GG	60.332(a)(4) and 60.335(b)(10)(ii).
VV	60.482–1(c)(2) and 60.484.
WW	60.493(b)(2)(i)(A) and 60.496(a)(1).
XX	60.502(e)(6).
AAA	60.531, 60.533, 60.534, 60.535, 60.536(i)(2), 60.537, 60.538(e), and 60.539.
BBB	60.543(c)(2)(ii)(B).
DDD	60.562–2(c).
GGG	60.592(c).
III	60.613(e).
JJJ	60.623.
KKK	60.634.
NNN	60.663(f).
QQQ	60.694.
RRR	60.703(e).
SSS	60.711(a)(16), 60.713(b)(1)(i) and (ii), 60.713(b)(5)(i), 60.713(d), 60.715(a) and 60.716.
TTT	60.723(b)(1), 60.723(b)(2)(i)(C), 60.723(b)(2)(iv), 60.724(e) and 60.725(b).
VVV	60.743(a)(3)(v)(A) and (B), 60.743(e), 60.745(a) and 60.746.
WWW	60.754(a)(5).
CCCC	60.2030(c)(1) through (7).

VI. Final Action

EPA is approving revisions to the North Dakota SIP that involve certain portions of the North Dakota Air Pollution Control Rules regarding general provisions, open burning, permitting, and fugitive emissions, as submitted by the Governor of North Dakota with a letter dated March 8, 2007. Specifically, EPA approves revisions to the following portions of the North Dakota Administrative Code (N.D.A.C.): Chapter 33–15–01, General Provisions, sections 33–15–01–04 and 33–15–01–05; Chapter 33–15–04, Open Burning Restrictions, sections 33–15–04–01 and 33–15–04–02; Chapter 33–15–14, Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate, subsections 33–15–14–02.13.c. and 33–15–14–02.13.o. (certain sections specific to permit to construct); and Chapter 33–15–17, Restriction of Fugitive Emissions, subsection 33–15–17–02. In addition, EPA approves revisions to North Dakota SIP Chapter 8, ''Source Surveillance,'' also submitted by the Governor of North Dakota with his March 8, 2007 letter. Specifically EPA approves Section 8.3.1, ''Continuous Opacity Monitoring for Fluid Bed Catalytic Cracking Units: Tesoro Refining and Marketing Co., Mandan Refinery.'' EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on July 28, 2008 without further notice unless EPA receives adverse comment by June 26, 2008. If EPA receives adverse comment, 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. 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 Review

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 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 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 July 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 7, 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 JJ—North Dakota

■ 2. Section 52.1820 is amended to read as follows:

■ a. In the table in paragraph (c) by:

■ i. Revising the entries for ''33–15–01–04;'' ''33–15–01–5;'' ''33–15–04–01;'' ''33–15–04–02;'' ''33–15–14–02;'' and ''33–15–17–02.''

■ ii. Adding entries in numerical order for ''33–15–04–02.1.b, 33–15–04–02.1.e, 33–15–04–02.1.g, and 33–15–04–02.2.k;'' and ''33–15–14–02.13.c and 33–15–14–02.13.o.''

■ iii. Removing the entry for ''33–15–14–02.5, 33–15–14–02.13.c, and 33–15–14–02.13.i(5)'' and adding in its place a new entry for ''33–15–14–02.5 and 33–15–14–02.13.i(5).''

■ b. In paragraph (d) by revising the table.

■ c. In the table in paragraph (e) by revising the entry ''(1)'' and by adding entry ''(20)'' in numerical order.

§ 52.1820 Identification of plan.

* * * * *

(c) EPA approved regulations.

STATE OF NORTH DAKOTA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date and citation [2]	Explanations
*	*	*	*	*
33–15–01–04	Definitions	1/1/07	5/27/08, [Insert **Federal Register** page number where the document begins.].	
33–15–01–05	Abbreviations	1/1/07	5/27/08, [Insert **Federal Register** page number where the document begins.].	
*	*	*	*	*
33–15–04–01	Refuse Burning Restrictions	1/1/07	5/27/08, [Insert **Federal Register** page number where the document begins.].	

STATE OF NORTH DAKOTA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date and citation [2]	Explanations
33–15–04–02	Permissible Open Burning	1/1/96	4/21/97, 62 FR 19224.	Excluding subsections 1.b, 1.e, 1.g, and 2.k which were subsequently revised and approved. See below.
33–15–04–02.1.b, 33–15–04–02.1.e, m, 33–15–04–02.1.g, and 33–15–04–02.2.k.	Permissible Open Burning	1/1/07	5/27/08, [Insert **Federal Register** page number where the document begins.].	
*	*	*	*	*
33–15–14–02	Permit to Construct	3/1/94	8/21/95, 60 FR 43396.	Excluding subsections 12, 3.c, 13.b.1, 5, 13.c, 13.i(5), 13.o, and 19 (one sentence) which were subsequently revised and approved. See below. See additional interpretive materials cited in 57 FR 28619, 6/26/92, regarding the State's commitment to meet the requirements of EPA's "Guideline on Air Quality Models (Revised)."
*	*	*	*	*
33–15–14–02.5 and 33–15–14–02.13.i(5).	Review of application—Standard for granting permits to construct and Exemptions.	3/1/03	8/8/05, 70 FR 45539.	
33–15–14–02.13.c and 33–15–14–02.13.o.	Exemptions	1/1/07	5/27/08, [Insert **Federal Register** page number where the document begins.].	
*	*	*	*	*
33–15–17–02	Restriction of fugitive particulate emissions.	1/1/07	5/27/08, [Insert **Federal Register** page number where the document begins.].	
*	*	*	*	*

[2] In order to determine the EPA effective date for a specific provision listed in this table, consult the FEDERAL REGISTER notice cited in this column for the particular provision.

(d) EPA-approved source-specific requirements.

Name of source	Nature of requirement	State effective date	EPA approval date and citation [3]	Explanations
—Leland Olds Station Units 1 & 2. —Milton R. Young Unit 1. —Heskett Station Units 1 & 2. —Stanton Station Unit 1. —American Crystal Sugar at Drayton.	SIP Chapter 8, Section 8.3, Continuous Emission Monitoring Requirements for Existing Stationary Sources, including amendments to Permits to Operate and Department Order.	5/6/77	10/17/77, 42 FR 55471.	
—Tesoro Mandan Refinery.	SIP Chapter 8, Section 8.3.1, Continuous Opacity Monitoring for Fluid Bed Catalytic Cracking Units: Tesoro Refining and Marketing Co., Mandan Refinery.	2/27/07	5/27/08, [Insert **Federal Register** page number where the document begins.].	

[3] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(e) EPA-approved nonregulatory provisions.

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/adopted date	EPA approval date and citation [4]	Explanations
(1) Implementation Plan for the Control of Air Pollution for the State of North Dakota.	Statewide	Submitted: 1/24/72 Adopted: 1/24/72	5/31/72, 37 FR 10842	Excluding subsequent revisions, as follows: Chapters 6, 11, and 12, and Sections 2.11, 3.2.1, 3.7, 5.2.1, 6.10, 6.11, 6.13, 8.3, and 8.3.1. Revisions to these non-regulatory provisions have subsequently been approved. See below.
		Clarification submitted: 6/14/73; 2/19/74; 6/26/74; 11/21/74; 4/23/75.	With all clarifications: 3/2/76, 41 FR 8956.	
Chapters: 1. Introduction. 2. Legal Authority. 3. Control Strategy. 4. Compliance Schedule. 5. Prevention of Air Pollution Emergency Episodes. 7. Review of New Sources and Modifications. 8. Source Surveillance. 9. Resources. 10. Inter-governmental Cooperation. 11. Rules and Regulations. With subsequent revisions to the chapters as follows:				
*	* *	*	* *	*
(20) Revisions to SIP Chapter 8, Section 8.3.1.		Submitted: 3/8/07	5/27/08, [Insert **Federal Register** page number where the document begins.].	

[4] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provisions.

■ 40 CFR part 60 is amended to read as follows:

PART 60—[AMENDED]

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

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

Subpart A—General Provisions

■ 4. In § 60.4, amend the table in paragraph (c) by revising the entries for subparts ''L,'' ''M,'' ''N,'' ''Na,'' ''P,'' ''Q,'' ''R,'' ''S,'' and ''BB'' to read as follows:

§ 60.4 Addresses.

* * * * *

(c) * * *

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS [(NSPS) FOR REGION VIII]

Subpart	CO	MT	ND	SD	UT	WY
* * * * *			*		*	
L—Secondary Lead Smelters	(*)	(*)	.....	.....	(*)	(*)
M—Secondary Brass and Bronze Production.						
Plants	(*)	(*)	.....	.....	(*)	(*)
N—Primary Emissions from Basic Oxygen Process Furnaces (after 6/11/73)	(*)	(*)	.....	.....	(*)	(*)
Na—Secondary Emissions from Basic Oxygen Process Furnaces (after 1/20/83)	(*)	(*)	.....	.....	(*)	(*)
* * * * *			*		*	
P—Primary Copper Smelters	(*)	(*)	.....	.....	(*)	(*)
Q—Primary Zinc Smelters	(*)	(*)	.....	.....	(*)	(*)
R—Primary Lead Smelters	(*)	(*)	.....	.....	(*)	(*)
S—Primary Aluminum Reduction Plants	(*)	(*)	.....	.....	(*)	(*)
* * * * *			*		*	
BB—Kraft Pulp Mills	(*)	(*)	.....	.....	(*)	(*)
* * * * *			*		*	

(*) Indicates approval of State regulation.

* * * * *

[FR Doc. E8–11479 Filed 5–23–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 00–168, 00–44; FCC 07–205]

Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations; Extension of the Filing Requirement for Children's Television Programming Report (FCC Form 398)

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission is correcting a final rule published in the **Federal Register** on March 13, 2008, 73 FR 13452. The document adopted a standardized form for the quarterly reporting of programming aired in response to issues facing a television station's community and a requirement that portions of each television station's public inspection file be placed on the Internet.

DATES: The rules in this document contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). After OMB approval is received, the Commission will publish a document in the **Federal Register** announcing the effective date of the rules.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Holly Saurer, *Holly.Saurer@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: In rule FR Doc. E8–5052 published on March 13, 2008, 73 FR 13452 make the following correction.

■ 1. On page 13463, in the second column, under § 73.3527, paragraph (e)(8)(i) and (ii) are added to read as follows:

§ 73.3527 [Corrected]

* * * * *

(e) * * *

(8) * * *

(i) *Issues/programs lists.* For nonexempt noncommercial educational radio broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October–December, April 10 for the quarter January–March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

(ii) *TV Standardized Public Interest Reporting Form.* For noncommercial educational TV and Class A TV broadcast stations, every three months a completed Standardized Public Interest Reporting Form with regard to the station's efforts to determine the issues facing its community and the programming aired during the preceding three month period in response to those issues. The form for each calendar quarter is to be filed by the thirtieth day of the succeeding calendar quarter (e.g., January 30 for the quarter October–December, April 30 for the quarter January–March, etc.). The forms described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

* * * * *

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–11407 Filed 5–23–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HOMELAND SECURITY

48 CFR Parts 3001, 3002, 3009, and 3013

[Docket No. DHS–2008–0051]

RIN 1601–AA51

Office of the Chief Procurement Officer; Revision of Department of Homeland Security Acquisition Regulation; Technical Amendments (HSAR Case 2008–001)

AGENCY: Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security (DHS) is amending its Homeland Security Acquisition Regulation to make the Transportation Security Administration subject to that regulation and to the Federal Acquisition Regulation system for acquisitions initiated after June 22, 2008. This rule also removes provisions related to DHS special streamlined acquisition authority, changes the name of the Bureau of Immigration and Customs Enforcement to U.S. Immigration and Customs Enforcement, and the name of the Bureau of Customs and Border Protection to U.S. Customs and Border Protection in the Homeland Security Acquisition Regulation, and makes other technical amendments.

DATES: *Effective date:* This rule is effective May 27, 2008. Although this rule goes into effect on May 27, 2008, the Transportation Security Administration exemption from the Homeland Security Acquisition Regulation and the Federal Acquisition Regulation system remains in effect up to and including June 22, 2008.

FOR FURTHER INFORMATION CONTACT: Kathy Strouss, Office of the Chief Procurement Officer, Department of Homeland Security (DHS), (202) 447–5300.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

The Homeland Security Acquisition Regulation (HSAR) supplements the Federal Acquisition Regulation (FAR) system to provide a uniform department-wide acquisition regulation for the Department of Homeland Security (DHS). The Transportation Security Administration (TSA) has historically been exempt from the HSAR by authority of section 101(a) of the Aviation and Transportation Security Act (ATSA), Pub. L. 107–71, codified at section 114(o) of title 49, which applies the acquisition management system (AMS) established by the Administrator of the Federal Aviation Administration (FAA) to TSA acquisitions. The Homeland Security Act of 2002, Pub. L. 107–296 (HSA), as amended, transferred TSA into DHS, but did not remove the application of the FAA AMS to TSA acquisitions. TSA thus continues to use the FAA AMS, and not the HSAR and the FAR, for TSA acquisitions.

On December 26, 2007, the President signed and thereby enacted the Consolidated Appropriations Act of 2008, Pub. L. 110–161. This legislation at division E, Title V, section 568, strikes section 114(o) of Title 49 effective June 23, 2008. Accordingly, TSA will be required to follow the FAR system and HSAR authorities for TSA acquisitions initiated after June 22, 2008. This final rule implements those changes by removing the TSA exemption from the HSAR and applying the HSAR and the FAR system to TSA acquisitions initiated on or after June 23, 2008.

Removal of DHS Streamlined Acquisition Authority, Name Changes for Two Components, and Additional Technical Amendments

Additional amendments contained in this regulatory action include technical amendments to 48 CFR Chapter 30 content as follows:

- Name changes for the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection in Parts 3001 and 3002;
- Removal of expired authority at 3013.70 regarding special streamlined acquisition authority; and
- Removal of the HSAR 3052.209–72 provision prescription content at the 3009.507 heading.

These amendments incorporate into the HSAR name changes made by DHS to two DHS Components. Congress and the President established DHS on January 24, 2003, as the result of the reorganization of 22 federal agencies, including the former Immigration and Naturalization Service (INS) and the U.S. Customs Service (Customs Service). Pursuant to sections 403, 442, 451 and 1502 of the HSA, the INS and the Customs Service were transferred to DHS effective March 1, 2003, and reorganized to become the Bureau of Citizenship and Immigration Services, the Bureau of Immigration and Customs Enforcement, and the Bureau of Customs and Border Protection. On January 18, 2007, DHS notified Congress that, pursuant to HSA section 872(a)(2), DHS was renaming the Bureau of Immigration and Customs Enforcement as U.S. Immigration and Customs Enforcement (ICE), and the Bureau of Customs and Border Protection as U.S. Customs and Border Protection (CBP). These name changes are reflected in a DHS notice published in the **Federal Register** on April 23, 2007, at 72 FR 20131. That notice requires that all references to the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection in existing documents and actions be construed as references to U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP), respectively. The amendments below make corresponding name changes to HSAR regulatory text.

The amendments also remove the provision prescription at 3009.507, which is now obsolete.

Finally, technical amendments to 3013.70 reflect the expiration of special streamlined DHS acquisition authorities. The HSA at division E, title VIII, section 833, authorized special streamlined acquisition authority for certain DHS procurement actions. That special authority expired on September 30, 2007. These amendments remove the HSAR guidance and instructions related to those expired authorities.

Good Cause for Immediate Adoption

DHS is issuing this final rule without prior notice and opportunity to comment pursuant to its authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes the agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' DHS finds that prior notice and public comment to this interim final rule is unnecessary and contrary to the public interest because the regulatory action implements a non-discretionary, legislative mandate and makes other minor, technical changes that do not otherwise modify the Department's current policies. As such, this is a technical and administrative change for which prior public notice and comment is unnecessary and contrary to the public interest.

II. Rulemaking Analysis and Notices

A. Executive Order 12866

The Office of Management and Budget has determined this rule to not be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993), as amended. Accordingly, this action was not subject to review under the Executive Order by

the Office of Information and Regulatory Affairs within OMB.

B. Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. DHS has certified that there is good cause for this interim final rule to be issued without prior notice and comment. In these circumstances an initial regulatory flexibility analysis is not required. In addition, this rule interprets legislation and is not subject to agency discretion. DHS thus certifies that this rule will not have a significant impact on a substantial number of small entities. DHS will, however, consider comments from small entities concerning the affected HSAR Part(s) in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately in writing to Kathy Strouss, the Office of the Chief Procurement Officer at *Kathy.Strouss@dhs.gov* and should cite to 5 U.S.C. 601, *et seq.* (HSAR case 2008–001), in the subject matter line of the correspondence.

C. Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)

This regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

D. Federalism (Executive Order 13132)

This regulatory action does not have Federalism implications, as set forth in Executive Order 13132. It 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.

List of Subjects in 48 CFR Parts 3001, 3002, 3009, and 3013

Government procurement.

Dated: May 19, 2008.

Thomas W. Essig,

Chief Procurement Officer, Department of Homeland Security.

■ For the reasons stated in the preamble, the Department of Homeland Security amends 48 CFR parts 3001, 3002, 3009, and 3013 as follows:

■ 1. The authority citation for 48 CFR parts 3001, 3002, 3009, and 3013 continues to read as follows:

Authority: 41 U.S.C. 418b(a) and (b).

PART 3001—FEDERAL ACQUISITION REGULATION SYSTEM

■ 2. Revise section 3001.104(b) to read as follows:

3001.104 Applicability.

* * * * *

(b) The Transportation Security Administration (TSA) exception to this regulation is authorized by the Aviation and Transportation Security Act of 2001 (ATSA) (section 101(a) of Public Law 107–71, as implemented at section 114(o) of title 49) for contracts awarded by TSA pursuant to this ATSA authority. The Consolidated Appropriations Act of 2008, Public Law 110–161, Division E, Title V, section 568 eliminates ATSA section 114(o) effective June 23, 2008. Accordingly, TSA acquisitions initiated after June 22, 2008 are subject to 48 CFR Chapters 1 and 30.

* * * * *

■ 3. Revise section 3001.105–2(a) to read as follows:

3001.105–2 Arrangement of regulations.

(a) General. The HSAR, which encompasses both Department-wide and Component-unique guidance, conforms to the arrangement and numbering system prescribed by (FAR) 48 CFR 1.105–2. Guidance that is unique to a Component contains the organization's acronym or abbreviation directly following the title. The following acronyms apply:

DHS Office of Procurement Operations (OPO);
Federal Emergency Management Agency (FEMA);
Federal Law Enforcement Training Center (FLETC);
Transportation Security Administration (TSA);
U.S. Coast Guard (USCG);
U.S. Customs and Border Protection (CBP);
U.S. Immigration and Customs Enforcement (ICE); and
U.S. Secret Service (USSS).

PART 3002—DEFINITIONS OF WORDS AND TERMS

■ 4. Amend section 3002.101 by revising the definition for ''Component'' to read as follows:

3002.101 Definitions.

* * * * *

Component means the following entities for purposes of this chapter:

(1) DHS Office of Procurement Operations (OPO);

(2) Federal Emergency Management Agency (FEMA);

(3) Federal Law Enforcement Training Center (FLETC);

(4) Transportation Security Administration (TSA), for acquisitions initiated after June 22, 2008;

(5) U.S. Coast Guard (USCG);

(6) U.S. Customs and Border Protection (CBP);

(7) U.S. Immigration and Customs Enforcement (ICE); and

(8) U.S. Secret Service (USSS).

* * * * *

PART 3009—CONTRACTOR QUALIFICATIONS

■ 5. Remove and reserve section 3009.507 to read as follows:

3009.507 Solicitation provision and contract clause. [Reserved]

PART 3013—SIMPLIFIED ACQUISITION PROCEDURES

3013.70 [Removed and reserved]

■ 6. Remove section 3013.70.

[FR Doc. E8–11560 Filed 5–23–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106671–8010–02]

RIN 0648–XI13

Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 21, 2008, through 1200 hrs, A.l.t., July 1, 2008.

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.

The second seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA is 100 metric tons as established by the 2008 and 2009 harvest specifications for groundfish of the GOA (73 FR 10562, February 27, 2008), for the period 1200 hrs, A.l.t., April 1, 2008, through 1200 hrs, A.l.t., July 1, 2008.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the second seasonal apportionment of the 2008 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the shallow-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the shallow-water species fishery are pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates and ''other species.'' This inseason adjustment does not apply to fishing for pollock by vessels using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This inseason adjustment does not apply to vessels fishing under a cooperative quota permit in the cooperative fishery in the Rockfish Pilot Program for the Central GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such 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 closure of the shallow-water species fishery by vessels using trawl gear in 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 May 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.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: May 21, 2008.

Emily H. Menashes,

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

[FR Doc. 08–1297 Filed 5–21–08; 1:37 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 080516675–8677–01]

RIN 0648–AW88

Fisheries of the Exclusive Economic Zone Off Alaska; Allocating Bering Sea and Aleutian Islands King and Tanner Crab Fishery Resources; Correction

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

ACTION: Final rule; correcting amendment.

SUMMARY: NMFS issues this final rule, a correcting amendment to the regulations governing the Bering Sea and Aleutian Islands crab fisheries. This action is necessary to correct a rule that was published on March 2, 2005 (70 FR 10173). This final rule is intended to promote the goals and objectives of the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

DATES: Effective June 26, 2008.

FOR FURTHER INFORMATION CONTACT: Glenn Merrill, 907–586–7228.

SUPPLEMENTARY INFORMATION: Bering Sea and Aleutian Islands (BSAI) crab fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) in accordance with the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). In January 2004, the U.S. Congress amended section 313(j) of the Magnuson-Stevens Act through the Consolidated Appropriations Act of 2004 (Public Law 108–199, section 801). As amended, section 313(j)(1) requires the Secretary of Commerce to approve and implement by regulation the Crab Rationalization Program (Program), as it was approved by the North Pacific Fishery Management Council (Council) between June 2002 and April 2003, and all trailing amendments, including those reported to Congress on May 6, 2003. In June 2004, the Council consolidated its actions on the Program into one Council motion, which is contained in its entirety in Amendment 18 to the FMP. Additionally, in June 2004, the Council developed Amendment 19 to the FMP, which represents minor changes necessary to implement the Program.

The Notice of Availability for these amendments was published in the **Federal Register** on September 1, 2004 (69 FR 53397). NMFS published a proposed rule to implement Amendments 18 and 19 on October 29, 2004 (69 FR 63200). NMFS approved Amendments 18 and 19 on November 19, 2004. NMFS published a final rule to implement Amendments 18 and 19 on March 2, 2005 (70 FR 10174). Shortly thereafter, NMFS also published a final rule (March 18, 2005; 70 FR 13097) to correct OMB control numbers provided in the March 2, 2005 final rule, and a second final rule (June 8, 2005; 70 FR 33390) to ensure that the March 2, 2005 final rule conforms to the statutory requirements and intent of the Program, to provide clarification regarding the Program's regulatory requirements, and to correct minor technical errors.

Need for Corrections

With this correction, NMFS seeks to ensure that the March 2, 2005 final rule conforms to the statutory requirements and intent of the Program. The March 2, 2005 final rule implemented regulations that establish the maximum amount of individual processing quota (IPQ) that may be issued in the Bristol Bay red king crab *Paralithodes camtschatica* (BBR) quota share (QS) fishery, and the Bering Sea snow crab *Chionoecetes opilio* (BSS) QS fishery. However, NMFS recently discovered that these regulations are not consistent with the statutory requirements of the Program.

Section 3.4 of Amendment 18 to the FMP limited the maximum amount of

IPQ that could be issued in the BBR and BSS QS fisheries. That section, which the Secretary is required to approve and implement, states that ''[t]he amount of IPQ in any year shall not exceed the percentage of the TAC [total allowable catch] for crab as follows: For opilio [BSS crab QS fishery], IPQ percentage times a TAC (after CDQ [community development quota] allocations) of 175 million pounds. For Bristol Bay red king crab [BBR crab QS fishery], IPQ percentage times a TAC (after CDQ allocations) of 20 million pounds.'' The ''IPQ percentage'' referred to in section 3.4 is described in section 2.4.1 of Amendment 18 as follows: ''90 [percent] of GHL (or TAC) would be issued as IPQs - the remaining 10 [percent] would be considered open delivery.'' Therefore, to determine the maximum amount of IPQ that can be issued in the BBR crab QS fishery according to the procedure established in section 3.4 of Amendment 18, 90 percent is multiplied by 20,000,000 pounds to yield 18,000,000 pounds. Similarly, to determine the maximum amount of IPQ that can be issued in the BSS crab QS fishery according to the procedure established in section 3.4 of Amendment 18, 90 percent is multiplied by 175,000,000 pounds to yield 157,500,000 pounds.

This calculation is explicitly described and calculated in section 3.6.2.3 of the Regulatory Impact Review that was prepared for the Program. For the BSS crab QS fishery, the option adopted by the Council in Amendment 18 to the FMP and approved by the Secretary limits IPQs to 157.5 million pounds, or 90 percent of 175 million pounds (the percentage of the TAC for which IPQs are issued times 175 million pounds). In the BBR crab QS fishery, the option adopted by the Council in Amendment 18 to the FMP and approved by the Secretary limits IPQs to 18 million pounds, or 90 percent of 20 million pounds.

However, the March 2, 2005 final rule implemented regulations at § 680.40(j)(3) that incorrectly specified the maximum amount of IPQ that would be issued in the BBR and BSS crab QS fisheries as follows: ''The amount of IPQ issued in any crab fishing year shall not exceed: (i) 175,000,000 raw crab pounds (79,378.6 mt) in the BSS crab QS fishery; and (ii) 20,000,000 raw crab pounds (9,071.8 mt) in the BBR crab QS fishery.'' These regulations are inconsistent with the statutory requirement to implement the Council's motion by regulation. NMFS is modifying regulations at § 680.40(j)(3) to clarify that the amount of IPQ issued in any crab fishing year shall not exceed 157,500,000 raw crab pounds (71,441.5 mt) in the BSS crab QS fishery, and 18,000,000 raw crab pounds (8,164.7 mt) in the BBR crab QS fishery. This change is necessary to correctly implement the Council's motion as required by section 313(j)(1) of the Magnuson-Stevens Act.

Classification

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that this final rule is necessary for the conservation and management of the BSAI crab fisheries. The Regional Administrator also has determined that this final rule is consistent with the Magnuson-Stevens Act and other applicable laws. This final rule has been determined to be not significant for the purposes of Executive Order 12866. Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Through this action, NMFS seeks to ensure that the regulations implementing the Program conform to the statutory requirements and intent of the Program and to provide clarification regarding the Program's regulatory requirements. Pursuant to 5 U.S.C. 553(b)(B), the NOAA Assistant Administrator for Fisheries finds good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable, unnecessary, and contrary to the public interest for the following reasons. First, the Program's statutory requirements concerning the maximum amount of IPQ that can be issued by NMFS in the BBR and BSS crab QS fisheries are non-discretionary. Section 3.4 of Amendment 18 to the FMP, which the Secretary is required to implement under section 313(j)(1) of the Magnuson-Stevens Act, limited the maximum amount of IPQ that could be issued in the BBR and BSS QS fisheries. NMFS has no discretion with respect to the terms of the calculations. As such, prior notice and an opportunity for public comment are unnecessary as the agency has no choice but to implement regulations that are consistent with the statute. Second, corrections and clarifications to ensure the rule's compliance with the intent of the Program must be made immediately in order to provide the regulated community with adequate and accurate information to establish the appropriate amount of IPQ to be issued for the upcoming crab fishing year. Harvesters and processors must apply to receive IFQ and IPQ, respectively, by August 1 for the upcoming crab fishing year. In order to allow the public to effectively plan and determine whether they will apply for IFQ or IPQ and to have a reasonable expectation about what the total amount of IPQ may be in the BBR and BSS crab QS fisheries, this regulation will need to be effective before that date. Prior notice and an opportunity for public comment on these measures are impracticable and contrary to the public interest because the time necessary to provide such procedures would lead to the realization of the very harm sought to be avoided by this rule. In contrast, waiving those procedures does not affect the regulated public in ways not previously analyzed and discussed in the Environmental Impact Statement and Regulatory Impact Review prepared for the Program.

List of Subjects in 50 CFR Part 680

Alaska, Fisheries.

Dated: May 21, 2008.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, 50 CFR part 680 is corrected by making the following correcting amendments:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 108–199; Pub. L. 109–241; Pub. L. 109–479.

§ 680.40 [Corrected]

■ 2. Correct § 680.40 as follows:

a. In paragraph (j)(3)(i), remove the phrase ''175,000,000 raw crab pounds (79,378.6 mt)'' and add in its place the phrase ''157,500,000 raw crab pounds (71,441.5 mt)''; and

b. In paragraph (j)(3)(ii), remove the phrase ''20,000,000 raw crab pounds (9,071.8 mt)'' and add in its place the phrase ''18,000,000 raw crab pounds (8,164.7 mt)''.

[FR Doc. E8–11780 Filed 5–23–08; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 102
Tuesday, May 27, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM–50–90; NRC–2008–0279]

Natural Resources Defense Council; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking dated March 24, 2008, filed by the Natural Resources Defense Council (petitioner). The petition was docketed by the NRC and has been assigned Docket No. PRM–50–90. The petitioner is requesting that the NRC amend the regulations that govern domestic licensing of production and utilization facilities, and special nuclear material to establish a date when the NRC will no longer license the use or export of highly enriched uranium (HEU) except for restricted use by a few specialized facilities. The petitioner believes that the amendment is needed to protect the public from potential exposure to an improvised nuclear explosive device made with HEU and used by terrorists.

DATES: Submit comments by August 11, 2008. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (PRM–50–90) in the subject line of your comments. Comments on petitions submitted in writing or in electronic form will be made available for public inspection. 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. Attention: Rulemaking 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, between 7:30 am and 4:15 pm on Federal workdays.

Publicly available documents related to this petition may be viewed electronically on the public computers located at the NRC Public Document Room (PDR), Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee.

Publicly available documents created or received at the NRC after November 1, 1999 are also available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.*

For a copy of the petition, write to Michael T. Lesar, Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The petition is also available electronically in ADAMS at ML080940052.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7163 or Toll-Free: 1–800–368–5642 or E-mail: *Michael.Lesar@NRC.Gov.*

SUPPLEMENTARY INFORMATION:

Background

The NRC has received a petition for rulemaking dated March 24, 2008, submitted by the Natural Resources Defense Council (petitioner). The petitioner requests that the NRC amend 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities;'' 10 CFR part 70, ''Domestic Licensing of Special Nuclear Material'' and other applicable regulations. Specifically, the petitioner requests that 10 CFR 50.64, ''Limitations on the use of highly enriched uranium (HEU) in domestic non-power reactors'' and portions of Part 70 that govern licensing of production of calibration or reference sources be amended to establish a date when the NRC will no longer license the civilian use of HEU. The petitioner also requests that applicable regulations governing export of HEU be amended to establish a time table to prohibit further transport and use of HEU.

The NRC has determined that the petition meets the threshold sufficiency requirements for a petition for rulemaking under 10 CFR 2.802. The petition was docketed by the NRC as PRM–50–90 on April 1, 2008. The NRC is soliciting public comment on the petition for rulemaking.

Discussion of the Petition

The petitioner requests that the NRC establish a date to no longer license the civilian use of HEU. The petitioner states that the basis for this request is bolstered by an article written by Thomas B. Cochran and Matthew G. McKinzie, ''Detecting Nuclear Smuggling,'' that appears in the April 2008 edition of Scientific American magazine. The petitioner states that the NRC should not license civilian use of HEU after December 31, 2009 (or an alternative date) except for use as reactor fuel at the MITR–II facility at the Massachusetts Institute of Technology (MIT), the Heavy Water Test Reactor at the National Institute of Standards and Technology (NIST), and the MURR facility at the University of Missouri. The petitioner also states that these facilities should be required to work with the NRC to establish dates when these reactors must be converted to low enriched uranium (LEU) fuel and report annually to NRC the progress toward fuel conversion.

The petitioner also requests that the NRC establish a date when HEU can no

longer be exported, citing the export of HEU to licensees in Canada for Mo-99/Tc-99m medical isotope production during the past five years. The petitioner states that a ban on the NRC-licensed civilian use and export of HEU should apply to all facilities except for blending down of existing HEU to LEU fuel for civilian power reactors and to lower concentrations (20 to 40 percent U–235) of HEU for use at the MIT, NIST, and MURR facilities. The petitioner also states that HEU used for weapons and naval propulsion reactor fuel, spent fuel and radioactive waste regulated by 10 CFR part 72, the use of HEU under exemptions in §§ 70.11–70.17, and small quantities for production of calibration or references sources covered under §§ 70.19 and 70.20 should remain exempt from the proposed amendment.

The petitioner believes its proposed amendment will establish ''an urgently needed precedent that HEU is simply too dangerous for continued commercial use.'' The petitioner also states that other countries will not likely ban civilian use of HEU as long as similar use of HEU is permitted in the U.S. and would signal other countries ''the imperative of eliminating vulnerable sources of HEU.'' The petitioner further states that eliminating civilian HEU use is absolutely necessary because the greatest threat to the U.S. is the risk that terrorists will use HEU to make an improvised nuclear explosive device.

The petitioner notes that it is very easy to construct an improvised nuclear explosive device with HEU in sufficient quantities and that assembly instructions for these devices are widely available by computer. The petitioner states that a one-kiloton surface burst from a nuclear explosion can produce comparable casualties at some U.S. locations as the 21-kiloton airburst over Nagasaki, Japan during World War II. The petitioner is also concerned that HEU cannot be reliably detected by radiation portal monitors currently used at ports and other border crossings, and that monitors are useless if bypassed in noting that millions of illegal aliens and much contraband have entered the U.S. The petitioner states that eliminating HEU at its source should be this country's highest priority because of the high national security risk and that existing Federal programs are moving far too slowly to combat the threat.

The petitioner also notes that no commercial U.S. power reactors use HEU fuel and that no future plans to use HEU in NRC-licensed power facilities exist. The petitioner further states that NRC continues to license the civilian use of HEU to fuel seven existing research and test reactors that have not converted to LEU fuel yet, citing the NRC-licensed BWXT Lynchburg Technology Center that manufactures reactor fuel for several of these reactors. The petitioner is not aware of any other civilian use of HEU other than for the export to Canada for use in producing Molybdenum-99 (Mo-99) for Technetium-99m (Tc-99m) production, the most widely used medical isotope.

The petitioner states that 10 CFR 50.64 prohibits continued use of HEU fuel in domestic non-power reactors if an LEU fuel alternative is available. The petitioner estimates that the three HEU-fueled TRIGA-type research reactors at Oregon State University, the University of Wisconsin and Washington State University, will be converted to LEU during the next two years. The petitioner also notes that the MIST, NIST, and MURR facilities are working with the Department of Energy (DOE) to develop LEU alternatives but is skeptical that DOE's estimate to convert these facilities will occur by 2014. The petitioner does not know if the only other facility in the U.S., a small (100 megawatt-thermal) Nuclear Test Reactor (NTR) at General Electric's Vallectios Nuclear Center used for radiography is scheduled for conversion but notes that the newer and larger LEU-fueled TRIGA facility at the McClellan Nuclear Radiation Center is also used for radiography.

The petitioner notes that the NTR is a joint venture of General Electric Company (GE) and Hitachi and has been permitted to continue to operate on HEU fuel by annually certifying to the NRC that DOE does not have the funding for conversion to LEU. The petitioner states that because GE and Hitachi can afford to promptly convert the NTR to LEU fuel without Federal support, the NTR should be shut down before it is refueled if these firms believe the conversion is not worth the investment. The petitioner also notes that NRC has authorized a two to three year supply of HEU for export to Canada for Mo-99/Tc-99m medical isotope production. The petitioner suggests that the Canadian firm, MDS Nordion, that extracts the Mo-99/Tc-99m from the HEU could use LEU material because at least two other Mo-99 producers have been doing so ''for more than 30 years.'' Although MDS Nordion would incur an additional expense associated with the conversion, the petitioner believes it would be ''a small price to pay for the elimination of HEU.''

The petitioner does not believe that establishing a firm date for ending civilian use of HEU will be detrimental to medical isotope production. However, the petitioner suggests that the NRC could authorize use of 20 to 40 percent-enriched HEU for a limited time if evidence is presented that complete elimination of HEU would not be practical for the MURR and MDC Nordion facilities. The petitioner states that a ''reduction from 93.5 percent enriched-HEU to 40 percent would only increase the target material requirement for Mo-99 production by a factor of about 2.3.'' The petitioner also states that approximately four times more 40 percent-enriched HEU would be required to make a one-kiloton improvised nuclear explosive device than using 93.5 percent enriched-HEU.

The petitioner concludes that because there is no known civilian use of HEU, including use as reactor fuel or for medical isotope production, that cannot be performed by using LEU, and that the high national security risks of HEU use clearly outweigh the benefits, the NRC should no longer license the civilian use and export of HEU.

The petitioner requests that the NRC conduct a rulemaking to establish the proposed amendments as detailed in this petition for rulemaking.

Dated at Rockville, Maryland, this 20th day of May 2008.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E8–11727 Filed 5–23–08; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 909

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 151

[USCG–2007–0164]

RIN 0648–AV68; 1625–AB24

Definition of Marine Debris for Purposes of the Marine Debris Research, Prevention, and Pollution Act

AGENCIES: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce; Coast Guard, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: NOAA and the Coast Guard propose to define marine debris for purposes of the Marine Debris Research, Prevention, and Reduction Act. NOAA and the Coast Guard propose a joint definition of marine debris. Interested parties may submit comments on this proposed rule.

DATES: Comments and related material must be received by July 28, 2008.

ADDRESSES: Comments and related material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2007–0164. When submitting comments, please indicate whether your comments are directed to the Coast Guard, NOAA, or both, and include in the subject line ''Comments on marine debris definition''. To avoid duplication, please use only one of the following methods to comment. Comments received by any of these methods will be posted on the docket and will be available for review at *http://www.regulations.gov*:

Coast Guard

(1) *Online: http://www.regulations.gov.* Follow the instructions for submitting comments to docket USCG–2007–0164.

(2) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(3) *Hand delivery:* Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

NOAA

(1) *On-line: http://www.regulations.gov.* Follow the instructions for submitting comments to docket USCG–2007–0164.

(2) *E-mail: NOAA.MarineDebris.FRNcomments@noaa.gov.*

(3) *Mail:* NOAA Ocean Service, Office of Response and Restoration, N/ORR, 1305 East-West Hwy., Silver Spring, MD 20910 c/o Dr. Holly A. Bamford.

(5) *Fax:* 301–713–4389.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call:

NOAA: Dr. Holly A. Bamford, NOAA Marine Debris Program at (301) 713–2989.

Coast Guard: LTJG David Major, Environmental Standards Division at (202) 372–1402.

If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The proposed rule would define the term 'marine debris' for purposes of the Marine Debris Research, Prevention, and Reduction Act (the Act). The definition was developed jointly by the National Oceanic and Atmospheric Administration (NOAA) and the United States Coast Guard (Coast Guard), in consultation with the Interagency Marine Debris Coordinating Committee (IMDCC).

The proposed rule defining marine debris states: ''For the purposes of the Marine Debris Research, Prevention, and Reduction Act (33 U.S.C. 1951–1958 (2006)) only, marine debris is defined as any persistent solid material that is manufactured or processed and directly or indirectly, intentionally or unintentionally, disposed of or abandoned into the marine environment or the Great Lakes.''

I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided. The Coast Guard has an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2007–0164), indicate the specific section of this document to which each comment applies, and give the reason for each comment. The Coast Guard recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that the Coast Guard can contact you if they have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard and NOAA will consider all comments and material received during the comment period. They may change this proposed rule in view of them.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* at any time, click on ''Search for Dockets,'' and enter the docket number for this rulemaking (USCG–2007–0164) in the Docket ID box, and click enter.

C. Privacy Act

Anyone can search the electronic form of all comments received into the docket by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://DocketsInfo.dot.gov.*

D. Public Meeting

The Coast Guard and NOAA do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

II. Acronyms

IMDCC Interagency Marine Debris Coordinating Committee
MARPOL 73/78 International Convention for the Prevention of Pollution from Ships, 1973, as modified by the protocol of 1978
NEPA National Environmental Policy Act
NOAA National Oceanic and Atmospheric Administration
NOS National Ocean Service
§ Section

III. Background and Purpose

The quantity of marine debris has increased over the years in spite of both domestic and international efforts to minimize it. As society develops new uses for materials, in particular plastics, the variety and quantity of items found in the marine environment has increased dramatically. These products range from common domestic material (e.g. bags, cups, bottles, balloons) to industrial products (e.g. strapping bands, plastic sheeting, hard hats, resin pellets) to lost or discarded fishing gear (e.g. nets, buoys, traps, lines, light

sticks). Modern fishing gear (e.g. nets, lines, pots, and other recreational or commercial fishing equipment) is generally made of synthetic materials and metal, and can persist when disposed of, abandoned, or discarded in the marine environment.

In 2005, Congress instructed NOAA to create a centralized program within the agency to coordinate existing activities related to marine debris and to develop effective strategies for research, prevention, and reduction of marine debris. Subsequently, in 2006, Congress passed the Marine Debris Research, Prevention, and Reduction Act (the Act) (33 U.S.C. 1951–1958 (2006)), the purposes of which include to identify, determine the sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety. The Act also reactivated the Interagency Marine Debris Coordinating Committee (IMDCC), an interagency Federal body responsible for developing and recommending comprehensive and multi-disciplinary approaches to reduce the sources and impacts of marine debris to the nation's marine environment, natural resources, public safety, and economy. The IMDCC meets quarterly to ensure coordination of research, monitoring, education, and regulatory actions addressing the persistent marine debris problem. The Act requires NOAA and the Coast Guard to consult with the IMDCC on the development of this proposed definition of marine debris. Furthermore, the Act requires NOAA to develop a federal marine debris clearinghouse to make accessible the most recent information on marine debris including prevention and reduction strategies, literature on marine debris impacts, and outreach and education material for multiple audiences.

The Act makes permanent a Marine Debris Prevention and Removal Program within NOAA (NOAA Program) which, among other things, is aimed at reducing and preventing the occurrence and adverse impacts of marine debris on the marine environment and navigational safety. The NOAA Program includes mapping, identification, impact assessment, removal, and prevention of marine debris with a focus on threats to living marine resources including commercial fisheries, species protected under the Endangered Species Act and Marine Mammal Protection Act, and the habitat upon which they depend. The NOAA Program is also intended to include use of non-regulatory approaches to reduce and prevent the loss of fishing gear, including the development of local or regional protocols for lost gear reduction and prevention. Such measures could include new gear technology, incentives to reduce the risk of lost gear, outreach and education, and other non-regulatory measures to cooperatively minimize the volume of lost and discarded fishing gear and to aid in its recovery. The Act authorizes NOAA to provide grants to entities whose activities affect research or regulation of marine debris and entities with expertise in a field related to marine debris.

The Act requires the Coast Guard to enforce the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the 1978 Protocol (MARPOL 73/78), Annex V and the Act to Prevent Pollution from Ships, 33 U.S.C. 1901–1915 (1996). The Coast Guard will continue to monitor and enforce the requirements of these acts among the appropriate regulated industries and communities. The Coast Guard also intends to maintain its voluntary reporting program, to report damage to vessels and disruption to navigation caused by marine debris and increase international cooperation to reduce marine debris. The Act also requires the Coast Guard to submit to Congress a report evaluating the Coast Guard's progress on these initiatives. In addition, the Act requires the Coast Guard to obtain a report from the National Research Council on the effectiveness of international and domestic measures to prevent and reduce marine debris and its impacts. The Coast Guard is actively working to fulfill these requirements.

IV. Discussion of Proposed Rule

The Act requires NOAA and the Coast Guard, in consultation with the IMDCC, to ''jointly develop and promulgate through regulations a definition of the term 'marine debris', [f]or the purposes of the Act.'' 33 U.S.C. 1954(b)(2006). The Act expressly limits the application of the definition of marine debris to the implementation and requirements of the Act. The Act does not authorize NOAA or the Coast Guard to undertake regulatory actions other than the promulgation of this definition, and the proposed definition of marine debris does not affect the regulatory or management activities of other federal agencies.

NOAA and the Coast Guard worked together to develop the proposed definition and considered both agencies' responsibilities under the Act when developing the proposed definition. NOAA and the Coast Guard are committed to continuing to work together to jointly develop any future revisions of the definition of marine debris for the purposes of the Act.

Generally, the term ''marine debris'' has a variety of meanings to the many entities working in and affecting the marine environment. The proposed definition, however, focuses on solid debris from both land-based and ocean-based sources and its adverse impacts on the marine environment and navigation safety. While alternative definitions were considered, the proposed definition would allow NOAA to consider the broadest possible range of marine debris projects for funding pursuant to the Act while providing the Coast Guard sufficient parameters to conduct useful and focused studies and reports required by the Act.

As required by the Act, NOAA and the Coast Guard consulted with the IMDCC during the development of the definition of marine debris in this proposed rule. Among the comments received from IMDCC members was a suggestion to include the phrase ''unauthorized'' in the definition in order to exclude those materials explicitly permitted to be discharged into the marine environment.

NOAA and the Coast Guard decided not to include the term ''unauthorized'' in the proposed definition because it would inappropriately narrow the definition. Such a limited definition would be inconsistent with the objectives of the Act, which are to identify, determine the sources of, assess, reduce, and prevent the full range of marine debris and its adverse effects on the marine environment and navigation safety. Several laws, such as the Act to Prevent Pollution from Ships, and the Ocean Dumping Act, allow the discharge, disposal or placement of persistent material into the ocean that could be considered ''marine debris'' as defined in this regulation. Authorities to dispose of or abandon material that is otherwise authorized by law, and may be considered marine debris as defined in this regulation, are not prohibited from disposal or otherwise affected by the programs implemented pursuant to the Act or the promulgation of this definition.

Some IMDCC members also commented that the definition of marine debris should be limited to debris with adverse effects on the marine environment. NOAA and the Coast Guard chose not to include this limitation because it would restrict opportunities to conduct research projects where the adverse impacts of marine debris are already known to be harmful and limit opportunities for conducting research where impacts are unknown or uncertain. Limiting the

range of research opportunities in this way would diminish the ability of NOAA and the Coast Guard to fulfill the objectives of the Act.

Promulgation of this definition will help fulfill the requirements of the Act and define the scope of the NOAA and Coast Guard programs pursuant to the Act. The NOAA Program will meet the objectives of the Act through coordination with the Coast Guard, the IMDCC, other Federal agencies, across NOAA line offices, and through partnerships with State and local governments, non-governmental organizations, universities, and marine related industries, particularly the fishing industry and the Regional Fishery Management Councils. The implementation of the Act will contribute to accomplishing NOAA's mission to promote marine ecosystem health, commerce, and transportation.

V. Regulatory Evaluation

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analysis based on these statutes and executive orders.

A. Executive Order 12866

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

B. Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard has considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The factual basis for this certification is set forth below.

Under 33 U.S.C. 1954, NOAA and the Coast Guard, in consultation with the Interagency Marine Debris Coordinating Committee (IMDCC), are required to promulgate jointly a definition of ''marine debris'' for the purposes of the Act. This proposed rule is relevant only to the scope and implementation of the NOAA and Coast Guard programs established by the Act and does not regulate any on-going activities. It serves only to define the scope of the grants and other cooperative funding that may be available through NOAA to federal and non-federal entities. The Coast Guard program provides for the Coast Guard to take certain actions in consultation with the IMDCC, pertaining to compliance with MARPOL Annex V and development and implementation of a plan to improve ship-board waste management, as well as actions to improve international cooperation to reduce marine debris and establish a voluntary marine debris reporting program for vessel operators. The NOAA program provides for NOAA, subject to available funding, to carry out activities with regard to the mapping, identification, impact assessment, removal and prevention of marine debris, as well as improve efforts to reduce and prevent the loss of fishing gear and outreach and education of the public. The Act further establishes a grant program administered by NOAA and makes funding opportunities available to non-federal entities, including private and public entities, to conduct activities that fulfill the requirements of the Act.

Therefore, the Coast Guard and NOAA certify under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment through one of the mechanisms listed in the **ADDRESSES** section. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism

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

E. Unfunded Mandates Reform Act

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

F. Taking of Private Property

This proposed rule would 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.

G. Civil Justice Reform

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

H. Protection of Children

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

I. Indian Tribal Governments

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

J. Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not

likely to have a significant adverse effect on the supply, distribution, or use of energy.

K. Technical Standards

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

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards. If you are aware of voluntary consensus standards that might apply but are not listed, please identify them in a comment to the Docket Management Facility at the address under **ADDRESSES** and explain why they should be used.

L. National Environmental Policy Act

The Coast Guard has analyzed this proposed rule under Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and NOAA has analyzed the proposed rule under NOAA Administrative Order 216–6, which sets forth NOAA's environmental review procedures for implementing NEPA. NOAA and the Coast Guard have made a preliminary determination this action is not likely to have a significant effect on the human environment.

A preliminary Coast Guard ''Environmental Analysis Check List'' supporting this preliminary determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule. This proposed rule has no expected direct, indirect or cumulative impacts for the purposes of NEPA and is not likely to have a significant effect on the human environment. The proposed rule does not regulate any on-going activities and serves only to define the scope of the grants and other cooperative funding that may be available through NOAA to federal and non-federal entities.

M. Department of Commerce Docket Number

The clearance docket number for the Department of Commerce is: 070615197–7864–02.

NOAA signature,

Dated: March 14, 2008.

John H. Dunnigan,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Coast Guard signature,

Dated: May 19, 2008.

B.M. Salerno,

RADM, Coast Guard, Assistant Commandant for Marine Safety, Security and Stewardship.

List of Subjects

15 CFR Part 909

Marine resources, Marine debris, Marine pollution, Ocean dumping.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, and Water pollution control.

For the reasons discussed in the preamble, NOAA proposes to add 15 CFR part 909 and the Coast Guard proposes to amend 33 CFR part 151 as follows:

1. 15 CFR part 909 is added to read as follows:

PART 909—MARINE DEBRIS

Sec.

909.1 Definition of marine debris for the purposes of the Marine Debris Research, Prevention, and Reduction Act.

Authority: 33 U.S.C. 1951–1958 (2006).

§ 909.1 Definition of marine debris for the purposes of the Marine Debris Research, Prevention, and Reduction Act.

(a) *Marine debris.* For the purposes of the Marine Debris Research, Prevention, and Reduction Act (33 U.S.C. 1951–1958 (2006)) only, marine debris is defined as any persistent solid material that is manufactured or processed and directly or indirectly, intentionally or unintentionally, disposed of or abandoned into the marine environment or the Great Lakes.

(b) NOAA and the Coast Guard have jointly promulgated the definition of marine debris in this part. Coast Guard's regulation may be found in 33 CFR 151.3000.

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

2. Add subpart E, to part 151 to read as follows:

Subpart E—Definition of Marine Debris for the Purposes of the Marine Debris Research, Prevention, and Reduction Act

Authority: 33 U.S.C. 1951–1958 (2006); 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

§ 151.3000 Definition of Marine Debris for the purposes of the Marine Debris Research, Prevention, and Reduction Act.

(a) *Marine debris.* For the purposes of the Marine Debris Research, Prevention, and Reduction Act (33 U.S.C. 1951–1958 (2006)) only, marine debris is defined as any persistent solid material that is manufactured or processed and directly or indirectly, intentionally or unintentionally, disposed of or abandoned into the marine environment or the Great Lakes.

(b) NOAA and the Coast Guard have jointly promulgated the definition of marine debris in this part. NOAA's regulation may be found in 15 CFR 909.

[FR Doc. E8–11700 Filed 5–23–08; 8:45 am]

BILLING CODE 3510–JE–P, 4910–15–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM08–7–000]

Modification of Interchange and Transmission Loading Relief Reliability Standards; and Electric Reliability Organization Interpretation of Specific Requirements of Four Reliability Standards

May 16, 2008.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Supplemental Notice of proposed rulemaking.

SUMMARY: On April 21, 2008, the Commission issued a Notice of Proposed Rulemaking (NOPR) that proposes, *inter alia,* to approve interpretations of specific requirements of Commission-approved Reliability Standards submitted to the Commission for approval by the North American Electric Reliability Corporation (NERC).

Pursuant to section 215 of the Federal Power Act (FPA), the Commission supplements the NOPR by proposing to approve NERC's modified interpretation of Reliability Standard BAL–005–0 (Automatic Generation Control), Requirement R17.

DATES: Comments for this Supplemental Notice of Proposed Rulemaking are due June 12, 2008, concurrent with the comment due date for the NOPR issued on April 21, 2008.

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

• *Agency Web Site: http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

• *Mail/Hand Delivery.* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Patrick Harwood (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Christopher Daignault (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

SUPPLEMENTARY INFORMATION:

Supplemental Notice of Proposed Rulemaking

May 16, 2008.

1. On April 21, 2008, the Commission issued a Notice of Proposed Rulemaking (NOPR) that proposes, *inter alia,* to approve interpretations of specific requirements of Commission-approved Reliability Standards submitted to the Commission for approval by the North American Electric Reliability Corporation (NERC).[1] Pursuant to section 215 of the Federal Power Act (FPA),[2] the Commission supplements the NOPR by proposing to approve NERC's modified interpretation of Reliability Standard BAL–005–0 (Automatic Generation Control), Requirement R17.

I. Background

A. Regulatory History

2. On December 19, 2007, NERC submitted for Commission approval interpretations of requirements in four Commission-approved Reliability Standards, including an interpretation of BAL–005–0, Requirement R17.[3] On April 15, 2008, NERC submitted a request to withdraw the interpretation of Requirement R17 and substitute a revised interpretation of the same requirement (referred to by NERC as ''interpretation (b)'').

3. On April 21, 2008, the Commission issued a NOPR in this proceeding. In the NOPR, the Commission noted that NERC submitted a modified interpretation of BAL–005–0 on April 15, 2008. The Commission stated that it did not plan to act on the initial interpretation and would address ''interpretation (b)'' at a future time.

B. NERC's Proposed Interpretation

4. Requirement R17 of Reliability Standard BAL–005–0 obligates each balancing authority to ''at least annually check and calibrate its time error and frequency devices against a common reference.'' This is one aspect of ensuring the accurate calculation of area control error (ACE). Requirement R17 states that a balancing authority must adhere to minimum accuracies in terms of ranges for the following devices: Digital frequency transducer, voltage transducer, remote terminal unit, potential transformer, and current transformer.

5. NERC received a request for interpretation regarding the type and location of the equipment to which Requirement R17 applies. In response, a NERC task force developed, and the NERC board of trustees approved, interpretation (b), which provides that BAL–005–0, Requirement R17

> applies only to the time error and frequency devices that provide, or in the case of back-up equipment may provide, input into the reporting or compliance ACE equation or provide real-time time error or frequency information to the system operator. Frequency inputs from other sources that are for reference only are excluded. The time error and error frequency measurement devices may not necessarily be located in the system operations control room or owned by the Balancing Authority; however the Balancing Authority has the responsibility for the accuracy of the frequency and time error devices. * * *
>
> New or replacement equipment that provides the same functions noted above requires the same calibrations. Some devices used for time error and frequency measurement cannot be calibrated as such. In this case, these devices should be cross-checked against other properly calibrated equipment and replaced if the devices do not meet the required level of accuracy.

II. Discussion

6. The Commission proposes to approve NERC's interpretation (b) of BAL–005–0, Requirement R17. The Commission agrees that, as stated in interpretation (b), time error and frequency devices that serve as input into the reporting or compliance of the ACE equation, *whether inside or outside the operations control room,* must be annually checked and calibrated. In addition, the Commission notes that tie-line megawatt metering data is another important aspect of ensuring the accurate calculation of area control error (ACE), and interpretation (b) limits the specific accuracy requirements of Requirement R17 to frequency and time error measurement devices. We seek comment on whether interpretation (b): (1) Could decrease the accuracy of frequency and time-error measurements by not requiring calibration of tie-line megawatt metering devices; (2) what conditions would preclude the requirement to calibrate these devices; and (3) whether the accuracy of these devices is assured by other requirements within BAL–005–0 in the absence of calibration.

III. Comment Procedures

7. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due June 12, 2008, concurrent with the comment due date for the NOPR issued on April 21, 2008. Comments must refer to Docket No. RM08–7–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

8. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

[1] *Modification of Interchange and Transmission Loading Relief Reliability Standards; and Electric Reliability Organization Interpretation of Specific Requirements of Four Reliability Standards,* 73 FR 22,856 (Apr. 28, 2008), FERC Stats. & Regs. ¶ 32,632 (2008).

[2] 16 U.S.C. 824o (Supp. V 2005).

[3] The Commission approved BAL–005–0 in Order No. 693. *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, 72 FR 31,452, FERC Stats. & Regs. ¶ 31,242, at P 396 (2007), *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007).

9. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

10. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

IV. Document Availability

11. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

12. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

13. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or e-mail at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. E-mail the Public Reference Room at *public.referenceroom@ferc.gov.*

List of Subjects in 18 CFR Part 40

Electric power, Electric utilities, Reporting and recordkeeping requirement.

By direction of the Commission.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–11694 Filed 5–23–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 111

[Docket No. USCBP–2008–0059]

RIN 1651–AA74

Customs Broker License Examination Individual Eligibility Requirements

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the requirements that an individual must satisfy in order to take the written examination for an individual broker's license, as administered by Customs and Border Protection (''CBP''). This proposed rule would require that to take the written examination, an individual would be required to be a U.S. citizen on the date of examination who has attained the age of 21 prior to the date of examination and is not an officer or employee of the United States Government. The proposed amendments would more closely align the requirements for taking the written examination with the requirements an individual must satisfy in order to obtain a customs broker's license. As a result, this proposed rule would facilitate the overall customs broker licensing process by helping to ensure that those taking the examination are not automatically precluded from obtaining a license by reason of age, citizenship status, or employment.

DATES: Comments must be received on or before July 28, 2008.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2008–0059.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., (Mint Annex), Washington, DC 20229.

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

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

FOR FURTHER INFORMATION CONTACT: Alfred S. Morawski, Chief, Broker Compliance Branch, Office of International Trade, (202) 863–6505.

SUPPLEMENTARY INFORMATION:

Public Participation

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

Background

Section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), provides that a person (an individual, corporation, association, or partnership) must hold a valid customs broker's license and permit in order to transact customs business on behalf of others. Section 641 also sets forth standards for the issuance of broker's licenses and permits, and provides for the taking of disciplinary action against brokers that have engaged in specified types of infractions. In the case of an applicant for an individual broker's license, § 641 states that the Secretary of the Treasury may conduct an examination to determine such applicant's qualifications for a license. Section 641 also authorizes the Secretary of the Treasury to prescribe rules and regulations relating to the customs business of brokers as necessary to protect importers and the revenue of the

United States and to carry out the provisions of § 641.

On November 25, 2002, the President signed the Homeland Security Act of 2002, (6 U.S.C. 101 *et seq.,* Public Law 107–296) (the ''HSA''), establishing the Department of Homeland Security. Pursuant to § 403(1) of the HSA, the United States Customs Service was transferred from the Department of the Treasury to the Department of Homeland Security effective March 1, 2003. In addition, pursuant to § 1502 of the HSA, the ''Customs Service'' was renamed as the ''Bureau of Customs and Border Protection.'' Subsequently, on April 23, 2007, a Notice was published in the **Federal Register** (72 FR 20131) to inform the public that the name of the Bureau of Customs and Border Protection had been changed by the Department of Homeland Security to ''U.S. Customs and Border Protection (CBP),'' effective March 31, 2007.

Treasury Order No. 100–16 (*see* Appendix to 19 CFR part 0) delegated to the Department of Homeland Security the authority to prescribe the rules and regulations relating to customs brokers.

The regulations issued under the authority of § 641 are set forth in part 111 of title 19 of the Code of Federal Regulations (19 CFR part 111). Part 111 includes detailed rules regarding the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers. These rules include the qualifications required of applicants and the procedures for applying for licenses and permits. Section 111.11 (19 CFR 111.11) sets forth the basic requirements for obtaining a broker's license. Paragraphs (a)(1) through (a)(4) of § 111.11 provide that, in order to obtain a customs broker's license, an individual must be: A citizen of the United States upon applying for the license and not an officer or employee of the United States; attain the age of 21 prior to the date of application for such license; be of good moral character; and, obtain a passing grade on the written examination within a 3-year period before submission of the application.

The regulations relating to the written examination for an individual customs broker's license are set forth in § 111.13 (19 CFR 111.13). Paragraph (b) of § 111.13, pertaining to the date and place of the examination, provides that an individual intending to take the examination must advise the appropriate port director in writing at least 30 calendar days prior to the scheduled examination date and remit the $200 examination fee prescribed in paragraph (a) of § 111.96. There are no additional requirements in § 111.13 that must be fulfilled in order for an individual to sit for the customs broker's license examination.

Explanation of Amendments

This document proposes to amend § 111.13 in order to more closely align the basic requirements an individual must satisfy in order to take the written examination for a broker's license with the basic requirements an individual must satisfy in order to actually obtain an individual broker's license. In order to be eligible to take the written examination under the proposed amendments, an individual would be required to be a citizen of the United States on the date of examination and not an officer or employee of the United States Government, and to attain the age of 21 prior to the date of examination. By more closely aligning the requirements for taking the examination with the requirements for obtaining a license, the proposed amendments would facilitate the overall licensing process by helping to ensure that those sitting for the examination are not automatically precluded from obtaining a license by reason of age, citizenship status, or employment. For example, under the current regulations, an individual could take and pass the examination but not be eligible to obtain a license because he or she has not attained the age of 21, is not a U.S. citizen, or is employed by the U.S. Government. The proposed amendments would prevent this from occurring and, as a result, such an individual would be spared the time and expense of preparing for and taking the examination. CBP would also benefit as the proposed rule would prevent unnecessary expenditures of resources in administering the examination with respect to individuals who are ineligible to obtain a license.

In addition, it is noted that limiting the examination to U.S. citizens is a reasonable security measure that conforms to the existing citizenship requirement for obtaining a license. Moreover, by barring U.S. Government employees from taking the examination, the proposed amendments would help to eliminate the appearance of any conflict of interest or unfair advantage that might be associated with their employment in connection with taking the examination.

This document also proposes non-substantive amendments to § 111.13(a), (c), and (e) to reflect the nomenclature changes effected by the transfer of CBP to the Department of Homeland Security.

Inapplicability of Regulatory Flexibility Act and Executive Order 12866

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities because the proposed rule would merely result in more closely aligning the requirements for taking the written examination for an individual customs broker's license with the requirements for actually obtaining a customs broker's license. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. In addition, this document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Signing Authority

This document is being issued by CBP in accordance with § 0.1(b)(1) of the CBP regulations (19 CFR 0.1(b)(1)).

List of Subjects

Administrative practice and procedure, Brokers, Customs duties and inspection, Imports, Licensing, Reporting and recordkeeping requirements.

Proposed Amendments to the CBP Regulations

It is proposed to amend part 111 of title 19 of the Code of Federal Regulations (19 CFR part 111) as set forth below.

PART 111—CUSTOMS BROKERS

1. The general authority citation for part 111 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 1641.

2. In § 111.13:

a. Paragraph (a) is amended by removing the words ''Customs Headquarters'' and adding, in their place, the words ''Customs and Border Protection Headquarters'';

b. Paragraph (b) is amended by revising the heading and adding a new first sentence;

c. Paragraph (c) is amended by removing the word ''Customs'' each place it appears and adding, in its place, the term ''CBP''; and

d. Paragraph (e) is amended by removing the word ''Customs'' in the first sentence and adding, in its place, the term ''CBP''.

The revision reads as follows:

§ 111.13 Written examination for individual license.

* * * * *

(b) *Basic requirements, date, and place of examination.* In order to be eligible to take the written examination, an individual must be a citizen of the United States on the date of examination and not an officer or employee of the United States Government, and attain the age of 21 prior to the date of examination. * * *

* * * * *

Dated: May 21, 2008.

Jayson P. Ahern,

Acting Commissioner, U.S. Customs and Border Protection.

[FR Doc. E8–11732 Filed 5–23–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–136020–07]

RIN 1545–BG96

Treatment of Property Used To Acquire Parent Stock in Certain Triangular Reorganizations Involving Foreign Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations under section 367(b) of the Internal Revenue Code (Code) regarding certain triangular reorganizations. The regulations implement rules described in Notice 2006–85 and Notice 2007–48. The regulations primarily affect corporations engaged in certain triangular reorganizations involving one or more foreign corporations. The text of those regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by August 25, 2008.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–136020–07), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–136020–07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–136020–07).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Daniel McCall, (202) 622–3860; concerning submissions of comments, requests for a public hearing, and/or to be placed on the building access list to attend a hearing, contact Richard Hurst (*Richard.A.Hurst@irscounsel.treas.gov*) or (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 367(b) of the Code and certain triangular reorganizations. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and the proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This certification is based on the fact that the regulations will primarily affect large multi-national corporations that engage in triangular reorganizations subject to the regulations. The regulations apply to triangular reorganizations, involving one or more foreign corporations, to the extent that, in connection with the reorganization, the acquiring corporation purchases, in exchange for property, all or a portion of the stock used to acquire the stock or assets of the target corporation. Therefore, the IRS and Treasury Department expect only a de minimis number of small business entities to be subject to the regulations. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Daniel McCall of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding new entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.367(a)–3(b)(2)(i)(C) also issued under 26 U.S.C. 367(a) and (b). * * *

Section 1.367(b)–14 also issued under 26 U.S.C. 367(b). * * *

Par. 2. Section 1.367(a)–3 is amended by adding new paragraph (b)(2)(i)(C) to read as follows:

§ 1.367(a)–3 Treatment of transfers of stock or securities to foreign corporations.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(C) [The text of this proposed amendment to § 1.367(a)–3(b)(2)(i)(C) is the same as the text of § 1.367(a)–3T(b)(2)(i)(C) published elsewhere in this issue of the **Federal Register**].

* * * * *

Par. 3. Section 1.367(b)–14 is added to read as follows:

§ 1.367(b)–14 Acquisition of parent stock for property in triangular reorganizations.

[The text of proposed § 1.367(b)–14 is the same as the text of § 1.367(b)–14T(a) through (e)(5) published elsewhere in this issue of the **Federal Register**.]

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E8–11647 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 219

[Docket ID: MMS–2007–OMM–0067]

RIN 1010–AD46

Allocation and Disbursement of Royalties, Rentals, and Bonuses—Oil and Gas, Offshore

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: The MMS proposes to amend the regulations on distribution and disbursement of royalties, rentals, and bonuses to include the allocation and disbursement of revenues from certain leases on the Gulf of Mexico Outer Continental Shelf in accordance with the provisions of the Gulf of Mexico Energy Security Act of 2006. The regulations would set forth the formula and methodology for calculating and allocating revenues to the States of Alabama, Louisiana, Mississippi, and Texas and their eligible political subdivisions. This proposed rule seeks to establish and ensure that the process for implementing the Gulf of Mexico Energy Security Act of 2006 provisions and the resulting distribution of revenues is accurate, transparent, and fully complies with our statutory responsibilities.

DATES: Submit comments by July 28, 2008. The MMS may not fully consider comments received after this date.

ADDRESSES: You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1010–AD46 as an identifier in your message. See also Public Availability of Comments under Procedural Matters.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Under the tab ''More Search Options,'' click Advanced Docket Search, then select ''Minerals Management Service'' from the agency drop-down menu, then click ''submit.'' In the Docket ID column, select MMS–2007–OMM–0067 to submit public comments and to view supporting and related materials available for this rulemaking. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link. The MMS will post all comments to the docket.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Regulations and Standards Branch (RSB); 381 Elden Street, MS–4024, Herndon, Virginia 20170–4817. Please reference ''Allocation and Disbursement of Royalties, Rentals, and Bonuses—Oil and Gas, Offshore, 1010–AD46'' in your comments and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Marshall Rose, Chief, Economics Division, Offshore Minerals Management at (703) 787–1538.

SUPPLEMENTARY INFORMATION:

Background

President George W. Bush signed the Gulf of Mexico Energy Security Act of 2006 (GOMESA) into law on December 20, 2006 (Pub. L. No. 109–432, 120 Stat. 2922), as part of H.R. 6111, The Tax Relief and Health Care Act of 2006, which also extended several energy tax programs that encourage efficiency and conservation, as well as the production and use of renewable energy sources. With regard to the Gulf of Mexico (GOM) Outer Continental Shelf (OCS) provisions (Division C, Title 1, 120 Stat. 3000), GOMESA:

- Lifted the congressional moratorium on oil and gas leasing and development in a portion of the Central GOM and mandates lease sales in two areas of the GOM (the 181 Area and 181 South Area as defined by GOMESA) notwithstanding the omission of those two areas from any OCS leasing program under section 18 of the OCS Lands Act (43 U.S.C. 1344);
- Established a moratorium through June 30, 2022 in the vast majority of the Eastern Planning Area and a small portion of the Central Planning Area;
- Provided for the establishment of a process to exchange existing leases in the new moratorium areas for bonus or royalty credits that may only be used in the GOM; and
- Provided for the distribution of certain OCS revenues to the Gulf producing States of Alabama, Louisiana, Mississippi, and Texas, and to certain coastal political subdivisions within those States.

This proposed rule sets forth how the Department of the Interior plans to implement the GOMESA requirements related to the distribution of OCS revenues to the Gulf producing States and their coastal political subdivisions.

Summary

For each of the fiscal years from 2007 through 2016, GOMESA directs the Secretary of the Treasury to deposit 50 percent of qualified OCS revenues—bonuses, rents, and royalties—from OCS oil and gas leases in areas designated as the 181 Area in the Eastern Planning Area and the 181 South Area into a special account in the United States Treasury. The GOMESA directs the Secretary of the Interior, for each of these fiscal years, to disburse 25 percent of the revenues in the special account to the Land and Water Conservation Fund (LWCF) and the remaining 75 percent to the States of Alabama, Louisiana, Mississippi, and Texas (collectively identified as the ''Gulf producing States'') and their eligible coastal political subdivisions. The revenues are to be allocated among the Gulf producing States based on their inverse proportional distance from the leases in the 181 Area in the Eastern Planning Area and the 181 South Area and in accordance with regulations established by the Secretary of the Interior. The GOMESA also provides that in determining the individual Gulf producing States' share of the qualified OCS revenues, no State, irrespective of the amount established by the application of the inverse proportional distance formula, shall receive less than 10 percent of the revenues to be disbursed.

The GOMESA directs the Secretary of the Interior to disburse 20 percent of the funds allocated to each Gulf producing State to political subdivisions within the State which are located in the State's coastal zone and are within 200 nautical miles of the geographic center of any OCS leased tract. Revenues are allocated to the coastal political subdivisions based on their population, miles of coastline, and their inverse proportional distance from designated leases in the 181 Area in the Eastern Planning Area.

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES UNDER GOMESA 2007–2016

Recipient of qualified OCS revenues	Percentage of qualified OCS revenues
U.S. Treasury	50.0
Land and Water Conservation Fund	12.5

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES UNDER GOMESA 2007–2016—Continued

Recipient of qualified OCS revenues	Percentage of qualified OCS revenues
Gulf Producing States	30.0
Eligible Coastal Political Subdivisions	7.5

The GOMESA requires that each Gulf producing State and coastal political subdivision use all amounts received for one or more of the following purposes:

- Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.
- Mitigation of damage to fish, wildlife, or natural resources.
- Implementation of a Federally-approved marine, coastal, or comprehensive conservation management plan.
- Mitigation of the impact of OCS activities through the funding of onshore infrastructure projects.
- Planning assistance and administrative costs not to exceed 3 percent of the amounts received.

The GOMESA establishes a separate revenue sharing provision to be implemented for fiscal year 2017 and thereafter. This proposed rule and the resulting final rule will apply to the fiscal years 2007 through 2016 time period only; the later period will be addressed in a subsequent rulemaking.

The following sections provide specific information on the applicable GOMESA provisions and how MMS proposes to implement them.

Definitions

The MMS proposes, in some instances, to clarify the GOMESA definitions to make them more precise and consistent with MMS's existing leasing, financial, and accounting practices. The MMS also proposes to include additional definitions in the rule. The definitions we propose to add or to expand in order to clarify the meaning are discussed below. Other terms defined in proposed § 219.411 of the regulation have the exact same definition as stated in section 102 of GOMESA.

181 Area—adopted directly from section 102 of GOMESA.

181 Area in the Eastern Planning Area—is comprised of the area of overlap of the two geographic areas defined in GOMESA as the ''181 Area'' and the ''Eastern Planning Area.'' A map of the ''181 Area in the Eastern Planning Area'' can be found with publicly available information for GOM Eastern Sale 224 at: *http://www.gomr.mms.gov/homepg/lsesale/224/egom224.html.*

181 South Area—adopted from section 102 of GOMESA. Means any area located south of the 181 Area, west of the Military Mission Line and in the Central Planning Area. A map of the 181 South Area can be found with the Call for Information and Nominations, Central GOM Planning Area South of Sale 181 Area at: *http://www.gomr.mms.gov/homepg/lsesale/208/cgom208.html.*

Applicable Leased Tract—The term ''applicable leased tract'' means a tract that is subject to a lease under section 6 or 8 of the OCS Lands Act for the purpose of drilling for, developing, and producing oil or natural gas resources and is located fully or partially in either the 181 Area in the Eastern Planning Area or in the 181 South Area

Central Planning Area—adopted directly from Section 102 of GOMESA.

Coastal Political Subdivision—The term ''coastal political subdivision'' means a political subdivision of a Gulf producing State any part of which political subdivision is:

(a) Within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the Gulf producing State as of December 20, 2006; and

(b) Not more than 200 nautical miles from the geographic center of any leased tract.

The only difference between this definition and the GOMESA definition is that GOMESA refers to political subdivisions that were within the coastal zone of a Gulf producing State ''as of the date of enactment of this Act.'' The definition proposed for this rule would refer to the actual date GOMESA was enacted.

Coastline—The term ''coastline'' means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters.

This is the definition of the coastline used in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and refers to the same line as that established for use in the Coastal Impact Assistance Program (CIAP) by section 384 of the Energy Policy Act of 2005 (EPAct) codified at 43 U.S.C 1356a.

Distance—The term ''distance'' means the minimum great circle distance.

Eastern Planning Area—adopted directly from section 102 of GOMESA.

Gulf Producing State—adopted directly from section 102 of GOMESA.

Leased Tract—The term ''leased tract'' means a tract that is subject to a lease under section 6 or 8 of the OCS Lands Act for the purpose of drilling for, developing, and producing oil or natural gas resources.

Military Mission Line—adopted directly from section 102 of GOMESA.

Qualified OCS Revenues

(a) IN GENERAL—The term ''qualified OCS revenues'' means, in the case of each of fiscal years 2007 through 2016, all rentals, royalties, bonus bids, and other sums received by the United States from leases entered into on or after December 20, 2006, located in:

(1) The 181 Area in the Eastern Planning Area; and

(2) the 181 South Area.

(b) For applicable leased tracts intersected by the planning area administrative boundary line (e.g., separating the GOM Central Planning Area from the Eastern Planning Area), only the percent of revenues equivalent to the percent of surface acreage in the 181 Area in the Eastern Planning Area will be considered qualified OCS revenues.

(c) Exclusions—The term ''qualified OCS revenues'' does not include:

(1) Rental revenues or user fees credited to MMS appropriated funds through the annual Congressional appropriations process,

(2) Revenues from the forfeiture of a bond or other surety securing obligations other than royalties,

(3) Civil penalties, and

(4) Royalties taken by the Secretary in-kind and not sold.

The proposed definition of ''qualified OCS revenues'' includes several variations from the GOMESA definition. First, the GOMESA definition refers to ''leases entered into on or after the date of enactment of this Act.'' The definition proposed for this rule would refer to the actual date GOMESA was enacted.

Second, in paragraph (a)(1), consistent with the way MMS has interpreted a similar CIAP provision, MMS interprets the phrase ''due and payable to'' to mean ''received by.'' The GOMESA definition of qualified OCS revenues refers to ''* * * all rentals, royalties, bonus bids, and other sums due and payable to the United States * * *,'' which could imply that the revenues to be allocated to the Gulf producing States, coastal political subdivisions, and the LWCF for a given fiscal year would be the amounts owed by lessees for the payment of royalties in that fiscal year, whether or not the payments were actually received by MMS during that fiscal year. This interpretation, however,

is not consistent with MMS's system of collecting and disbursing royalty revenues.

Royalties on oil and gas produced in 1 month are due and payable by the end of the following month, e.g., royalties on oil and gas produced in October must be paid by the end of November. The MMS does not calculate royalty amounts owed and bill payors; rather, MMS accepts the amounts payors report and pay subject to subsequent audit and other verification procedures.

Royalty payors frequently make adjustments to previous months' royalty payments as final data become available on sales, volumes, prices, and the amount of allowable transportation or processing deductions. The adjustments may result in payors paying additional royalties or, if previous royalties were overpaid, claiming a credit against their current royalty obligation. These adjustments may not occur until several months after the payment was originally due. As a result, payments made in 1 fiscal year may be adjusted in a subsequent fiscal year.

The value of these adjustments for the leases that are subject to the GOMESA revenue sharing provisions are not expected to be substantial and, further, will in any event, tend to balance out over time as both positive and negative adjustments are made from 1 fiscal year to the next. Attempting to track all the adjustments and account for them in the revenue allocation process would be labor intensive, prohibitively costly, and require an uneconomic use of scarce Federal resources. Consequently, for the purposes of this rule, MMS proposes to use all rentals, royalties, bonus bids, and other sums traditionally received and subsequently transferred to the Treasury General Fund Miscellaneous Receipt Account as a proxy for revenues due and payable.

With the passage of the GOMESA, qualified OCS revenues will be deposited into the Treasury General Fund Miscellaneous Receipt Account (50 percent Federal share) and the Treasury Special Account (50 percent LWCF-State-CPS share).

Third, in paragraph (c)(1), to maintain consistency with all rentals, royalties, bonus bids, and other sums traditionally received and subsequently transferred to the Treasury General Fund Miscellaneous Receipt Account, this definition of qualified OCS revenues excludes any rental revenues and cost recovery user fees that may be designated by Congress to MMS through the annual appropriations process. Since 1993, Congress has funded a significant part of MMS' operations with a portion of the OCS rental revenue receipts and cost recovery fees.

The fiscal year 2009 President's Budget proposed appropriation language allocates to MMS:

> * * * an amount not to exceed *$133,730,000,* to be credited to this appropriation and to remain available until expended, from additions to [rental] receipts resulting from increases to rates in effect on August 5, 1993.

This reference to the *receipts* resulting from increases to rates in effect on August 5, 1993, provides a significant share of MMS appropriated funds. These receipts are retained by MMS to fund current operations.

The fiscal year 2009 President's Budget adds appropriations language confirming GOMESA qualified OCS revenues do not include Congress' appropriation of OCS rental receipts to MMS.

> Provided further, that the term ''qualified Outer Continental Shelf revenues'', as defined in section 102(9)(A) of the Gulf of Mexico Energy Security Act, Division C of Public Law 109–432, shall include only the portion of rental revenues that would have been collected at the rental rates in effect before August 5, 1993.

Additionally, payments made by owners of applicable leases for provision of special services are collected by MMS under the authority based on the direct cost of providing that service to the lessees, and are not considered receipts directly emerging from a lease's revenues themselves. These fees are collected by MMS under the authority of the Independent Office Appropriations Act and are consistent with the Office of Management and Budget's Circular A–25. This revenue also provides a significant share of MMS operating funds. For these reasons, rentals and cost recovery fees designated by Congress as part of MMS appropriations are not included as qualified OCS revenues.

Fourth, this definition of qualified OCS revenues omits GOMESA subparagraph § 102(9)(A)(ii), that defines qualified OCS revenues for the period 2017, and thereafter because the allocation of qualified OCS revenues during that period will be addressed in a regulation to be issued later.

Fifth, this definition of qualified OCS revenues omits GOMESA subparagraph § 102(9)(B)(ii) (revenues generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) since none of the applicable (GOMESA) leased tracts are within the so-called 8(g) zone.

Sixth, GOMESA excludes from the definition of qualified OCS revenues, revenues from the forfeiture of a bond or other surety securing obligations other than royalties, civil penalties, or royalties taken by the Secretary in-kind and not sold (which would include oil taken in-kind and transferred into the Strategic Petroleum Reserve).

Finally, for applicable leased tracts intersected by the planning area administrative boundary line (e.g., separating the GOM Central Planning Area from the Eastern Planning Area), only the percentage of revenues equal to the percentage of acreage in the 181 Area in the Eastern Planning Area will be considered qualified OCS revenues. This is consistent with the distribution of revenues from tracts only partially within the 8(g) zone. When a tract is only partially within the 8(g) zone, States receive 27 percent of a percentage of bonuses, rents, and royalties equal to the percentage of surface acreage within the 8(g) zone.

We believe these elements of the definitions are consistent with the intent of the GOMESA provisions and other applicable laws. We welcome your comments and suggestions on the definitions as proposed by MMS.

Disposition of Qualified OCS Revenues to Gulf Producing States

For the fiscal year 2007 through fiscal year 2016, GOMESA provides that 50 percent of qualified OCS revenues are to be placed in a special Treasury account from which the Secretary of the Interior shall disburse:

- 75 percent to the Gulf producing States (of which 20 percent would subsequently be allocated to local eligible coastal political subdivisions); and
- 25 percent to provide financial assistance to States in accordance with section 6 of the LWCF.

The GOMESA provides that qualified OCS revenues shall be allocated to each Gulf producing State in amounts that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract. Implementation of this provision requires MMS to make three key sets of determinations:

- The points that are the geographic centers of each applicable leased tract;
- The point on the coastline of each Gulf producing State that is closest to the geographic center of each applicable leased tract; and
- The distances between the two points for each applicable leased tract.

Although the set of States and leases involved differs between the two

programs, MMS proposes to use a similar methodology to calculate the distances between the Gulf producing States and the geographic center of the applicable leased tracts for GOMESA as it does for CIAP. Likewise, the formula and methodology MMS will use to calculate the Gulf producing States' shares of qualified OCS revenues is based on their inverse proportional distance from the applicable leased tracts, which is the same concept employed for the CIAP.

The GOMESA provides that in determining the individual Gulf producing States' share of the qualified OCS revenues, no State, irrespective of the amount established by the application of the inverse proportional distance formula, shall receive less than 10 percent of the revenues to be disbursed.

Procedures for Distance Calculations

The following information describes how MMS proposes to calculate the distances between the Gulf producing States and coastal political subdivisions and applicable leased tracts which would be used in the inverse proportional distance calculations to allocate the qualified OCS revenues.

Determination of leased tract center points—From MMS databases, we will identify all applicable leased tracts (i.e., all blocks that were subject to an oil and gas lease either on the first or last day of the fiscal year) in the 181 Area located in the Eastern Planning Area and in the 181 South Area. The MMS will calculate, by mathematical methods, the geographic center of each leased tract in the two areas using standard accepted mapping software (ArcGIS). The center will be that location which provides a balancing point in two-dimensional space. If the leased tract is intersected by the planning area administrative boundary line (administrative boundary between the Central Planning Area and Eastern Planning Area), MMS will use the geographic center of the entire leased tract to calculate the inverse distance. In the unusual case where a lease is both awarded and relinquished between the first and last days of the same fiscal year, we count the lease revenues but not the lease's location in applying the distribution formula.

Determination of measurement points on State coastlines—According to the Submerged Lands Act (43 U.S.C. 1301), the term ''coast line'' means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters. For purposes of both international and domestic law, the boundary line dividing the land from the ocean is called the *baseline*. The baseline is determined according to principles described in the 1958 United Nations Convention on the Territorial Sea and the Contiguous Zone and the 1982 United Nations Convention on the Law of the Sea (LOS Convention), and is normally the low water line along the coast, as marked on charts officially recognized by the coastal nation.

In the United States, the definition has been further refined based on Federal court decisions; the U.S. baseline is the mean lower low water line along the coast, as shown on official U.S. nautical charts. The baseline is the set of points and connected lines, representing the mean lower low water line in direct contact with the open sea and marking the seaward limit of open water. The baseline is drawn across river mouths, the opening of bays, and along the outer points of complex coastlines. The normal baseline from which the maritime zones are charted can be considered synonymous with the coastline as defined by the Submerged Lands Act.

We will use the latitudinal and longitudinal data for the baseline data points in conjunction with the leased tract center point data to identify the points on the States' coastlines that are closest to the geographic center of the applicable leased tracts.

Measurement of distances from States to leased tracts—Using the data identifying the geographic centers of the applicable leased tracts and the above described points on the States' coastlines, we will find the nearest coastline points to each applicable leased tract by measuring the distances between all of the appropriate data points, using calculated coastline-to-leased tract distances, and then determining the pairs of points with the shortest distance for each State/applicable leased tract pair.

The EPAct requires MMS to use the great circle distance to establish the distances between the States' coastlines and the leased tracts in the CIAP and MMS proposes to use the great circle distance for the GOMESA program as well. The great circle distance is the shortest distance between any two points on the surface of the Earth measured along a path on the surface of the Earth. Between any two points on a sphere which are not directly opposite each other, there is a unique great circle. The two points separate the great circle into two arcs. The length of the shorter arc is the great circle distance between the points.

Calculation of Gulf Producing State Revenue Allocations

The MMS will calculate each Gulf producing State's share of the qualified OCS revenues using the following proposed procedure:

(1) For each Gulf producing State, we propose to calculate and total, over all applicable leased tracts, the mathematical inverses of the distances between the points on the State's coastline that are closest to the geographic centers of the applicable leased tracts and the geographic centers of the applicable leased tracts.

(2) For each Gulf producing State, we would divide the sum of each State's inverse distances, from all applicable leased tracts, by the sum of the inverse distances from all applicable leased tracts across all four Gulf producing States. We would multiply the result by the amount of qualified OCS revenues to be shared, as shown below. In the formulas, I_{AL}, I_{LA}, I_{MS}, and I_{TX} represent the sum of the inverses of the closest distances between Alabama, Louisiana, Mississippi, and Texas and all applicable leased tracts, respectively.

Alabama Share = $(I_{AL} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Louisiana Share = $(I_{LA} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Mississippi Share = $(I_{MS} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Texas Share = $(I_{TX} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

The following simplified example, involving only two applicable leased tracts, illustrates the application of the steps above in calculating the revenue allocations for the Gulf producing States and also demonstrates how the inverse distance formulas work to reward those closest to the sources of revenue.

Suppose there are two applicable leased tracts (t_1 and t_2) and that the following table represents the closest distance from each Gulf producing State to the geographic centers of each applicable leased tract:

Gulf producing state	Applicable leased tracts				Sum of inverse distances
	t_1		t_2		
	Distance (nautical miles)	Inverse distance	Distance (nautical miles)	Inverse distance	
Alabama	50	0.0200	70	0.0143	0.0343
Louisiana	90	0.0111	80	0.0125	0.0236
Mississippi	70	0.0143	60	0.0167	0.0310
Texas	230	0.0043	210	0.0048	0.0091
All States	440	0.0497	420	0.0483	0.0980

Further, suppose that fiscal year qualified OCS revenues are $96 million, $12 million of which would go to the LWCF and $36 million of which would be allocated to the Gulf producing States. Applying the formulas above, the $36 million would be allocated to the Gulf producing States as shown below.

Alabama Share = (0.0343 ÷ 0.0980) × $36 million = $12,600,000.00

Louisiana Share = (0.0236 ÷ 0.0980) × $36 million = $8,669,387.76

Mississippi Share = (0.0310 ÷ 0.0980) × $36 million = $11,387,755.10

Texas Share = (0.0091 ÷ 0.0980) × $36 million = $3,342,857.14

However, because Texas' share is less than $3.6 million or 10 percent of the allocation of $36 million, we would allocate a 10 percent share to Texas and recalculate the other Gulf producing States' shares omitting Texas and its 10 percent share from the calculation as shown below.

Alabama Share = (0.0343 ÷ (0.0980 − 0.0091)) × $32.4 million = $12,500,787.40

Louisiana Share = (0.0236 ÷ (0.0980 − 0.0091)) × $32.4 million = $8,601,124.86

Mississippi Share = (0.0310 ÷ (0.0980 − 0.0091)) × $32.4 million = $11,298,087.74

Total = $32,400,000

Texas Share = 10% × $36 million = $3,600,000

Adding the three States' shares to the Texas' 10 percent share sums to $36,000,000.

Payments to Coastal Political Subdivisions

The MMS will pay 20 percent of the allocable share of each Gulf producing State to eligible coastal political subdivisions of the Gulf producing State. The coastal political subdivisions eligible for GOMESA funds are shown in the table below.

COASTAL POLITICAL SUBDIVISIONS ELIGIBLE FOR A SHARE OF QUALIFIED OCS REVENUES UNDER THE GULF OF MEXICO ENERGY SECURITY ACT

Alabama counties	Louisiana parishes	Mississippi counties	Texas counties
Baldwin, Mobile	Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermillion	Hancock, Harrison, Jackson	Arkansas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris, Jackson, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Orange, Refugio, San Patricio, Victoria, Willacy

In the allocation of revenues among the States' coastal political subdivisions, GOMESA refers to the CIAP provisions in EPAct that amend section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a). Specifically, GOMESA states that the funds shall be allocated to each coastal political subdivision in accordance with subparagraphs (B), (C), and (E) of section 31(b)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(b)(4)) which provides that:

''(B) FORMULA.—Of the amount paid by the Secretary to coastal political subdivisions under subparagraph (A)—

(i) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

(I) The coastal population of the coastal political subdivision; bears to

(II) The coastal population of all coastal political subdivisions in the producing State;

(ii) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

(I) The number of miles of coastline of the coastal political subdivision; bears to

(II) The number of miles of coastline of all coastal political subdivisions in the producing State; and

(iii) 50 percent shall be allocated in amounts that are inversely proportional to the respective distances between the points in each coastal political subdivision that are closest to the geographic center of each leased tract, as determined by the Secretary.

(C) EXCEPTION FOR THE STATE OF LOUISIANA.—For the purposes of subparagraph (B)(ii), the coastline for coastal political subdivisions in the State of Louisiana without a coastline shall be considered to be ⅓ the average length of the coastline of all coastal political subdivisions with a coastline in the State of Louisiana.

* * *

(E) EXCLUSION OF CERTAIN LEASED TRACTS.—For purposes of subparagraph (B)(iii), a leased tract or portion of a leased tract shall be excluded if the tract or portion of a leased tract is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on that date.''

We will allocate 50 percent of the funds available to the coastal political subdivisions based on the population formula (25 percent), coastline formula (25 percent) and (B)(i) and (ii) above. To determine coastal political subdivision coastline lengths for calculating the coastline length shares, we will use standard geographical information system software (ArcGIS). To determine the population shares, we will make our

allocations using the latest official U.S. Census Bureau census population data.

We will allocate the remaining 50 percent of the funds available to the coastal political subdivisions ((B)(iii)) by calculating and applying the inverse proportional distance ratios in the same way we do for allocating revenues to the Gulf producing States in this proposed rule, except we would exclude leased tracts in the 181 South Area due to the provisions of paragraph (E) of section 31(b)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(b)(4)) as amended by the Energy Poly Act of 2005. The 181 South Area was under a moratorium as of January 1, 2005, and no lease has ever produced in this area, thus those tracts cannot be included in the calculations for coastal political subdivisions in accordance with paragraph (E). In calculating the inverse proportional distances for States, we will use applicable leased tracts in the 181 Area in the Eastern Planning Area and in the 181 South Area. For the coastal political subdivisions, however, we will only use applicable leased tracts in the 181 Area in the Eastern Planning Area.

There is a slight possibility that there could be a fiscal year in which there are no applicable leased tracts in the 181 Area in the Eastern Planning Area, so there would be no way to allocate the 50 percent funds to coastal political subdivisions based on their inverse proportional distances to applicable leased tracts. This would only occur if no leasing occurred in the 181 Area in the Eastern Planning Area or all leases awarded in this area were relinquished at some point before 2016. In the event this situation should occur, we propose to allocate:

- 50 percent of the funds based on the proportion that each coastal political subdivision's population bears to the coastal population of all coastal political subdivisions in the Gulf producing State; and
- 50 percent of the funds based on the proportion that each coastal political subdivision's miles of coastline bears to the number of miles of coastline of all coastal political subdivisions in the producing State.

We believe this proposal is fair and is the alternative that is most consistent with the GOMESA provisions. We welcome your suggestions and recommendations about other alternatives to allocate funds among coastal political subdivisions if there were no applicable leased tracts in the Sale 181 Area in the Eastern Gulf of Mexico Planning Area in the fiscal year for which funds are being disbursed.

Bonus or Royalty Credits for Relinquished Leases

Section 104(c) of GOMESA authorizes the Secretary of the Interior (Secretary) to issue a bonus or royalty credit for use only in the Gulf of Mexico for the exchange of certain leases located offshore of the State of Florida. The proposed regulations for Bonus or Royalty Credits authorized under GOMESA can be found in the proposed rule RIN 1010–AD44, Bonus or Royalty Credits for Relinquishing Certain Leases Offshore, published February 1, 2008 (FR 73 6073). The statute does not exclude these credits from being applied to bonus or royalty obligations for leases subject to GOMESA revenue sharing provisions. To the extent this occurs, the United States would receive less qualified OCS revenues than if the bidders or lessees had paid in cash. It necessarily follows that any distribution of royalty or bonus payments to a State or coastal political subdivision would result in a corresponding reduction from what it would have been had the entire payment been made in cash.

The MMS projects the effect of section 104(c) on GOMESA revenue sharing during fiscal years 2007 through 2016 to be very limited. Since the GOMESA distribution requirements apply only to revenues derived from new leases issued in the portion of the 181 Area located in the Eastern Planning Area and to the 181 South Area, production, and hence royalty, from such leases likely will not occur anytime soon. Further, MMS allocates the portion of qualified OCS revenues paid to Gulf producing States between those States based on an inverse distance formula. This effect on a particular State from a reduction in a particular bonus payment for a new lease in the subject areas, because of use of a bonus credit, would be minimal. Finally, given the thousands of other leases to which the credits may be applied, the credits are more likely to be used to pay bonus and royalty obligations on leases that are not subject to revenue sharing provisions.

Timing of Annual Disbursements to States and Coastal Political Subdivisions

Per Section 105(c) of GOMESA, funds are required to be made available during the fiscal year immediately following the applicable fiscal year.

For the portion of qualified OCS revenues represented by bonuses and rental payments, the calculation of the revenue sharing distribution on applicable leased tracts can be finalized relatively quickly once the computational software is operational. In the case of the royalty portion, additional time can be expected. However, it will likely be several years before there are any royalties paid on GOMESA leases subject to revenue sharing during 2007–2016. Accordingly, MMS expects that during the first few years of the 2007–2016 revenue sharing period, before there are any producing leases, revenue sharing funds can be distributed within the first half of the following fiscal year.

Procedural Matters

Regulatory Planning and Review (Executive Order (E.O.) 12866)

This proposed rule is not a significant rule as determined by the Office of Management and Budget (OMB) and is not subject to review under E.O. 12866.

(1) This proposed rule would not have an annual effect of $100 million or more on the economy. It would not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The GOMESA directs the Secretary to disburse a portion of qualified OCS revenues to the Gulf producing States, coastal political subdivisions, and the LWCF. This proposed rule describes the formula and methodology MMS would use to allocate the revenues among the Gulf producing States and the coastal political subdivisions. The transfer of revenues from the Federal Government to State and local governments would not impose additional costs on any sector of the U.S. economy, and would not have any appreciable effect on the National economy. Internal estimates in June 2007, made for official budget projections, indicate that the annual transfers will total less than the $100 million annual threshold because of the relatively small OCS area whose bonus, rental, and royalty payments are subject to revenue sharing.

(2) This proposed rule would not create any serious inconsistency or otherwise interfere with an action taken or planned by another agency. No other agency is affected by the disbursements mandated by GOMESA.

(3) This proposed rule would not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This proposed rule does not raise novel legal or policy issues. This proposed rule would merely provide formulas and methods to implement an Act of Congress. Previously, section 8(g) of the OCS Lands Act and section 384 of the Energy Policy Act of 2005 have provided for the distribution of a

portion of OCS revenues to coastal States and local governments with distributions under the latter statute using essentially the same formulas and methods proposed in this rule.

Regulatory Flexibility Act

The Department of the Interior (DOI) certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The provisions of this proposed rule specify how qualified OCS revenues would be allocated to certain States and eligible coastal political subdivisions. The proposed rule would have no effect on the amount of royalties, rents, or bonuses owed by lessees, operators, or payors regardless of size and, consequently, would not have a significant economic effect on offshore lessees and operators, including those classified as small businesses. Small entities may benefit from expenditures funded by these shared revenues, but it is not possible to estimate that effect since under the statute, States, and political subdivisions will be receiving such revenues.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of MMS, call 1–888–734–3247. You may comment to the Small Business Administration without fear of retaliation. Disciplinary action for retaliation by an MMS employee may include suspension or termination from employment with the DOI.

Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a major rule under 5 U.S.C. 804(2) of the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

a. Would not have an annual effect on the economy of $100 million or more. The provisions of this proposed rule specify how qualified OCS revenues would be allocated to States and coastal political subdivisions. The proposed rule would have no effect on the amount of royalties, rents, or bonuses owed by lessees, operators, or payors regardless of size and, consequently, would not have a significant adverse economic effect on offshore lessees and operators, including those classified as small businesses. The Gulf producing States and coastal political subdivision recipients of the revenues would likely fund contracts that would benefit the local economies, small entities, and the environment. These effects are projected to be less than $100 million annually.

b. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies, or geographic regions.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The effects, if any, of distributing revenues to the States and coastal political subdivision are projected to be beneficial.

Unfunded Mandates Reform Act

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The proposed rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required because the proposal is not a mandate. It merely provides the formulas and methods to implement an allocation of revenue to certain States and eligible coastal political subdivisions, as directed by Congress. Further, the statute allows 3 percent of funds allocated to Gulf producing States and coastal political subdivisions to be used for planning and administrative activities.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this proposed rule does not have significant takings implications. The proposed rule is not a governmental action capable of interference with constitutionally protected property rights. A takings implication assessment is not required.

Federalism (E.O. 13132)

Under the criteria in E.O. 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule would not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this proposed rule would not affect that role, though it may fund activities that mitigate local challenges attributed to OCS exploration and development. A Federalism Assessment is not required.

Civil Justice Reform (E.O. 12988)

This proposed rule complies with the requirements of E.O. 12988. Specifically, this proposed rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (E.O. 13175)

Under the criteria in E.O. 13175, we have evaluated this proposed rule and determined that it has no potential effects on federally recognized Indian tribes. There are no Indian or tribal lands in the OCS or tribes that qualify as GOMESA revenue sharing recipients.

Paperwork Reduction Act

The proposed revisions do not contain any information collection subject to the Paperwork Reduction Act (PRA) and does not require a submission to OMB for review and approval under section 3507(d) of the PRA.

National Environmental Policy Act

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. The MMS has analyzed this rule under the criteria of the National Environmental Policy Act (NEPA) and 516 Departmental Manual 6, Appendix 10.4C(1). The MMS completed a Categorical Exclusion Review for this action and concluded that the rulemaking is categorically excluded from NEPA because it involves ''issuance and modification of regulations * * * for which the impacts are limited to administrative, economic, or technical effects * * *.'' Therefore, preparation of an environmental analysis or environmental impact statement will not be required.

Data Quality Act

In developing this proposed rule we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C § 515, 114 Stat. 2763, 2763A–153–154).

Effects on the Energy Supply (E.O. 13211)

This proposed rule is not a significant energy action under the definition in

E.O. 13211. A Statement of Energy Effects is not required.

Clarity of This Regulation

We are required by E.O. 12866, E.O.12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by any of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 30 CFR Part 219

Government contracts, Indian—lands, Mineral royalties, Oil and gas exploration, Public lands—mineral resources.

Dated: March 25, 2008.

C. Stephen Allred,

Assistant Secretary—Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 30 CFR part 219 as follows:

PART 219—DISTRIBUTION AND DISBURSEMENT OF ROYALTIES, RENTALS, AND BONUSES

1. The authority citation for part 219 is revised to read as follows:

Authority: Section 104, Pub. L. 97–451, 96 Stat. 2451 (30 U.S.C. 1714), Pub. L. No. 109–432, Div C, Title I, 120 Stat. 3000.

2. Amend part 219 by adding a new Subpart D—Oil and Gas, Offshore, to read as follows:

Subpart D—Oil and Gas, Offshore

Sec.

219.410 What does this subpart contain?
219.411 What definitions apply to this subpart?
219.412 How will the qualified OCS revenues be divided?
219.413 How will the coastal political subdivisions of Gulf producing States share in the qualified OCS revenues?
219.414 How will MMS determine each Gulf producing State's share of the qualified OCS Revenues?
219.415 How will bonuses and royalty credits effect revenues allocated to Gulf producing States?
219.416 How will the qualified OCS revenues be allocated to coastal political subdivisions within the Gulf producing States?
219.417 How will MMS disburse qualified OCS revenues to the coastal political subdivisions if, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area?
219.418 When will funds be disbursed to Gulf producing States and eligible coastal political subdivisions?

§ 219.410 What does this subpart contain?

The Gulf of Mexico Energy Security Act of 2006 directs the Secretary of the Interior to disburse a portion of the rentals, royalties, bonus, and other sums derived from certain Outer Continental Shelf (OCS) leases in the Gulf of Mexico to the States of Alabama, Louisiana, Mississippi, and Texas (collectively identified as the Gulf producing States); to eligible coastal political subdivisions within those States; and to the Land and Water Conservation Fund. This subpart sets forth the formula and methodology MMS will use to determine the amount of revenues to be disbursed and the amount to be allocated to each Gulf producing State and each eligible coastal political subdivision.

§ 219.411 What definitions apply to this subpart?

Terms in this subpart have the following meaning:

181 Area means the area identified in map 15, page 58, of the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002, dated August 1996, of the Minerals Management Service, available in the Office of the Director of the Minerals Management Service, excluding the area offered in OCS Lease Sale 181, held on December 5, 2001.

181 Area in the Eastern Planning Area is comprised of the area of overlap of the two geographic areas defined as the ''181 Area'' and the ''Eastern Planning Area''.

181 South Area means any area—

(1) located—

(i) south of the 181 Area;

(ii) West of the Military Mission Line; and

(iii) in the Central Planning Area;

(2) excluded from the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002, dated August 1996, of the Minerals Management Service; and

(3) Included in the areas considered for oil and gas leasing, as identified in map 8, page 37 of the document entitled ''Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012'', dated February 2006.

Applicable Leased Tract means a tract that is subject to a lease under section 6 or 8 of the Outer Continental Shelf Lands Act for the purpose of drilling for, developing, and producing oil or natural gas resources and is located fully or partially in either the 181 Area in the Eastern Planning Area or in the 181 South Area.

Central Planning Area means the Central Gulf of Mexico Planning Area of the outer Continental Shelf, as designated in the document entitled ''Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012'', dated February 2006.

Coastal political subdivision means a political subdivision of a Gulf producing State any part of which political subdivision is—

(1) Within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the Gulf producing State as of December 20, 2006; and

(2) Not more than 200 nautical miles from the geographic center of any leased tract.

Coastline means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters. This is the same definition used in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

Distance means the minimum great circle distance.

Eastern Planning Area means the Eastern Gulf of Mexico Planning Area of the Outer Continental Shelf, as designated in the document entitled ''Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012'', dated February 2006.

Gulf Producing State means each of the States of Alabama, Louisiana, Mississippi, and Texas.

Leased Tract means any tract that is subject to a lease under section 6 or 8 of the Outer Continental Shelf Lands Act for the purpose of drilling for, developing, and producing oil or natural gas resources.

Military Mission Line means the north-south line at 86°41′ W. longitude.

Qualified OCS Revenues—

(1) The term ''qualified OCS revenues'' means, in the case of each of fiscal years 2007 through 2016, all rentals, royalties, bonus bids, and other sums received by the United States from leases entered into on or after December 20, 2006, located:

(i) In the 181 Area in the Eastern Planning Area; and

(ii) In the 181 South Area.

(2) For applicable leased tracts intersected by the planning area administrative boundary line (e.g., separating the GOM Central Planning Area from the Eastern Planning Area), only the percent of revenues equivalent to the percent of surface acreage in the 181 Area in the Eastern Planning Area will be considered qualified OCS revenues.

(3) Exclusions to the term ''qualified OCS revenues'' include:

(i) Rental revenues or user fees credited to MMS appropriated funds through the annual Congressional appropriations process;

(ii) Revenues from the forfeiture of a bond or other surety securing obligations other than royalties;

(iii) Civil penalties; and

(iv) Royalties taken by the Secretary in-kind and not sold.

§ 219.412 How will the qualified OCS revenues be divided?

For each of the fiscal years 2007 through 2016, 50 percent of the qualified OCS revenues will be placed in a special United States Treasury account from which 75 percent of the revenues will be disbursed to the Gulf producing States and 25 percent will be disbursed to the Land and Water Conservation Fund. Each Gulf producing State will receive at least 10 percent of the qualified OCS revenues available for allocation to the Gulf producing States each fiscal year.

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES UNDER GOMESA

Recipient of qualified OCS revenues	Percentage of qualified OCS revenues
U.S. Treasury	50
Land and Water Conservation Fund	12.5
Gulf Producing States	30

REVENUE DISTRIBUTION OF QUALIFIED OCS REVENUES UNDER GOMESA—Continued

Recipient of qualified OCS revenues	Percentage of qualified OCS revenues
Eligible Coastal Political Subdivisions	7.5

§ 219.413 How will the coastal political subdivisions of the Gulf producing States share in the qualified OCS revenues?

Of the revenues allocated to a Gulf producing State, 20 percent will be distributed to the coastal political subdivisions within that State.

§ 219.414 How will MMS determine each Gulf producing State's share of the qualified OCS revenues?

(a) The MMS will determine the geographic centers of each applicable leased tract and, using the great circle distance method, will determine the closest distance from the geographic centers of each applicable leased tract to each Gulf producing State's coastline.

(b) Based on these distances, we will calculate the qualified OCS revenues to be disbursed to each Gulf producing State using the following proposed procedure:

(1) For each Gulf producing State, we will calculate and total, over all applicable leased tracts, the mathematical inverses of the distances between the points on the State's coastline that are closest to the geographic centers of the applicable leased tracts and the geographic centers of the applicable leased tracts. For applicable leased tracts intersected by the planning area administrative boundary line, the geographic center used for the inverse distance determination will be the geographic center of the entire lease as if it were not intersected.

(2) For each Gulf producing State, we would divide the sum of each State's inverse distances, from all applicable leased tracts, by the sum of the inverse distances from all applicable leased tracts across all four Gulf producing States. We would multiply the result by the amount of qualified OCS revenues to be shared, as shown below. In the formulas, I_{AL}, I_{LA}, I_{MS}, and I_{TX} represent the sum of the inverses of the closest distances between Alabama, Louisiana, Mississippi, and Texas and all applicable leased tracts, respectively.

Alabama Share = $(I_{AL} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Louisiana Share = $(I_{LA} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Mississippi Share = $(I_{MS} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

Texas Share = $(I_{TX} \div (I_{AL} + I_{LA} + I_{MS} + I_{TX})) \times$ Qualified OCS Revenues

(3) If in any fiscal year, this calculation results in less than a 10 percent allocation of the qualified OCS revenues to any Gulf producing State, we will recalculate the distribution. We will allocate 10 percent of the qualified OCS revenues to the State and recalculate the other States' shares of the remaining qualified OCS revenues omitting the State receiving the 10 percent minimum share and its 10 percent share from the calculation.

§ 219.415 How will the use of bonus and royalty credits effect revenue allocation to Gulf producing States?

If bonus and royalty credits issued under Section 104(c) of the Gulf of Mexico Energy Security Act are used to pay bonuses or royalties on leases in the 181 Area located in the Eastern Planning Area and the 181 South Area, then there will be a corresponding reduction in qualified OCS revenues available for distribution.

§ 219.416 How will the qualified OCS revenues be allocated to coastal political subdivisions within the Gulf producing States?

The MMS will disburse funds to the coastal political subdivisions in accordance with the following criteria:

(a) Twenty-five percent of the qualified OCS revenues will be allocated to a Coastal producing State's coastal political subdivisions in the proportion that each coastal political subdivision's population bears to the population of all coastal political subdivisions in the producing State;

(b) Twenty-five percent of the qualified OCS revenues will be allocated to a Coastal producing State's coastal political subdivisions in the proportion that each coastal political subdivision's miles of coastline bears to the number of miles of coastline of all coastal political subdivisions in the producing State. Except that, for the State of Louisiana, proxy coastline lengths for coastal political subdivisions without a coastline will be considered to be one-third the average length of the coastline of all political subdivisions within Louisiana having a coastline.

(c) Fifty percent of the revenues will be allocated to a Coastal producing State's coastal political subdivisions in amounts that are inversely proportional to the respective distances between the geographic center of each applicable leased tract and the point in each coastal political subdivision that is

closest to the geographic center of each applicable leased tract. Except that, an applicable leased tract will be excluded from this calculation if any portion of the tract is located in a geographic area that was subject to a leasing moratorium on January 1, 2005, unless the leased tract was in production on that date.

§ 219.417 How will MMS disburse qualified OCS revenues to the coastal political subdivisions if, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area?

If, during any fiscal year, there are no applicable leased tracts in the 181 Area in the Eastern Gulf of Mexico Planning Area, MMS will disburse funds to the coastal political subdivisions in accordance with the following criteria:

(a) Fifty percent of the revenues will be allocated to a Coastal producing State's coastal political subdivisions in the proportion that each coastal political subdivision's population bears to the population of all coastal political subdivisions in the State; and

(b) Fifty percent of the revenues will be allocated to a Coastal producing State's coastal political subdivisions in the proportion that each coastal political subdivision's miles of coastline bears to the number of miles of coastline of all coastal political subdivisions in the State. Except that, for the State of Louisiana, proxy coastline lengths for coastal political subdivisions without a coastline will be considered to be ⅓ the average length of the coastline of all political subdivisions within Louisiana having a coastline.

§ 219.418 When will funds be disbursed to Gulf producing States and eligible coastal political subdivisions?

The MMS will disburse allocated funds in the fiscal year after MMS collects the qualified OCS revenues. For example, MMS will disburse funds in fiscal year 2010 from the qualified OCS revenues collected during fiscal year 2009.

[FR Doc. E8–11709 Filed 5–23–08; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0333; FRL–8571–1]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Reasonably Available Control Technology (RACT) for Norfolk Southern Corporation

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 the removal of a nitrogen oxide (NO_X) RACT permit for sources located at the Norfolk Southern Corporation in Roanoke, Virginia, which have permanently shut down. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 26, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2008–0333 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–2008–0333, 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–2008–0333. 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: Ellen Wentworth, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov*.

SUPPLEMENTARY INFORMATION: On February 11, 2008, the Virginia Department of Environmental Quality (VADEQ) submitted a revision to its State Implementation Plan (SIP) pertaining to the removal of a NO_X RACT permit for sources located at the Norfolk Southern Railway Company, located in Roanoke, Virginia, that had permanently shut down.

I. Background

Prior to the final designations of the 8-hour ozone nonattainment area, EPA developed a program to allow potential nonattainment areas to voluntarily adopt local emission control programs to avoid air quality violations and mandated nonattainment area controls. Areas with air quality meeting the

1-hour ozone standard were eligible to participate. In order to participate, state and local governments and EPA had to develop and sign a memorandum of agreement that described the local control measures the state or local community intended to adopt and implement to reduce emissions of ozone-forming air pollutants. This agreement was known as an Early Action Compact (EAC). Areas that participated in the EAC program had the flexibility to institute their own approach in maintaining clean air and protecting public health.

Several localities in the Winchester and Roanoke, Virginia areas elected to participate in the EAC program. Virginia's strategy for enabling these localities to participate in the EAC program was to have them be subject to volatile organic compound (VOC) and NO_X control measures from which they had previously been exempt. In order to enable the affected localities to implement VOC and NO_X controls, the list of VOC and NO_X emission control areas in 9 VAC 5–20–206, Volatile Organic Compound and Nitrogen Oxide Emission Control Areas, was expanded to include the counties of Botetourt, Frederick, and Roanoke, and the cities of Roanoke, Salem, and Winchester. This area became known as the Western Virginia Emissions Control Area (70 FR 21625, April 27, 2005). As a result, the VOC and NO_X control regulations of Chapter 40 became applicable in the Roanoke area.

The Norfolk Southern Railway Company rail car and locomotive maintenance facility located in Roanoke, Virginia, was identified as one of the sources located in the Western Virginia Emissions Control Area subject to RACT. Accordingly, the company prepared a RACT analysis to support a RACT determination for the control of NO_X emissions from the facility. After undergoing public comment, a state operating permit was issued to the source to ensure compliance with the RACT requirements. The permit, No. 20468, was submitted to EPA as a revision to the Commonwealth of Virginia SIP on February 7, 2005. EPA published its approval of the SIP revision on April 27, 2005 (70 FR 21621).

II. Summary of SIP Revision

On February 11, 2008, the Commonwealth of Virginia submitted a revision to its SIP which consisted of mutual agreements between the VDEQ and the Norfolk Southern Corporation for permanent shut downs of certain NO_X RACT-subject sources located at the Norfolk Southern Corporation complex in Roanoke, Virginia. Since the time of EPA's approval of the NO_X RACT requirements for the Norfolk Southern Railway Company (70 FR 21621, April 27, 2005), many sources at the facility, including those that had previously been subject to the NO_X RACT requirements of 9 VAC 5–40, via permit No. 20468, were permanently shut down. As a result, the VADEQ is requesting that EPA remove RACT permit No. 20468 from the Virginia SIP, since it is no longer applicable. Once EPA has approved this request and VADEQ has notified Norfolk Southern Corporation of its approval, the permit repeal will become effective 30 days later.

The units subject to the NO_X RACT requirements of permit No. 20468, which have permanently shut down, include the following: Unit ID #8–01—B&W Stirling coal-fired spreader stoker boiler; Unit ID #8–02—B&W Stirling coal-fired spreader stoker boiler; Unit ID #8–03—B&W Stirling coal-fired spreader stoker boiler; Unit ID #8–04—Zurn Energy coal-fired spreader stoker boiler; Unit ID #43–03—15 open-front oil-fired metal heating furnaces; and Unit ID #51–13/14—one 13-ton capacity electric arc furnace.

The February 11, 2008 SIP revision consists of signed mutual determination agreements of permanent shut downs between the VADEQ and Norfolk Southern Corporation for the previously identified RACT-subject sources in accordance with the requirements of 9 VAC 5–20–220, and state operating permit regulations 9 VAC 5–80–1210, subsection L. Unit ID #8–01–B&W Stirling coal-fired spreader stoker boiler; Unit ID #8–02–B&W Stirling coal-fired spreader stoker boiler; and Unit ID #8–03–B&W Stirling coal-fired spreader stoker boiler were permanently shut down as per the shut down agreement between VADEQ and Northern Southern Corporation, dated August 20, 2007. Unit ID #8–04–Zurn Energy coal-fired spreader stoker boiler; Unit ID #43–03—15 open-front oil-fired metal heating furnaces, and Unit #15–13/14—one 13-ton capacity electric arc furnace, were permanently shut down as per the shut down agreement between VADEQ and Northern Southern Corporation, dated June 22, 2005.

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virgina

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 is proposing to approve the Commonwealth of Virginia's SIP revision request, submitted on February 11, 2008, to remove NO_X RACT permit No. 20468 from the Virginia SIP. The SIP revision consists of mutual agreements between VADEQ and the Norfolk Southern Corporation for permanent shut down of the units described above. EPA is proposing approval of the removal of NO_X RACT permit No. 20468 from the Virginia SIP with the understanding that no future operation of this equipment shall occur until the owner has obtained the applicable permits pursuant to 9 VAC 5 Chapter 80 of Virginia's regulations. Once EPA has approved this request and VADEQ has notified Norfolk Southern Corporation of EPA's approval, the removal of permit No. 20468 from the Virginia SIP will become effective 30 days later. 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 the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, pertaining to the removal of a NO_X RACT permit from the Virginia SIP for sources at the Norfolk Southern Corporation that have permanently shut down, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 14, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E8–11733 Filed 5–23–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0185; FRL–8571–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Section 110(a)(1) 8-Hour Ozone Maintenance Plan and 2002 Base-Year Inventory for the Lawrence County 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 Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) submitted a SIP revision consisting of a maintenance plan that provides for continued attainment of the 8-hour ozone national ambient air quality standard (NAAQS) for at least 10 years after the April 30, 2004 designations, as well as a 2002 base-year inventory for the Lawrence County Area. EPA is proposing approval of the maintenance plan and the 2002 base-year inventory in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 26, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2008–0185 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–2008–0097, 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–2008–0185. 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 Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Melissa Linden, (215) 814–2096, or by e-mail at *linden.melissa@epa.gov*.

SUPPLEMENTARY INFORMATION: On December 17, 2007, PADEP formally submitted for approval, under section 110(a)(1) of the CAA, a SIP revision for the 8-hour ozone maintenance plan and the 2002 base-year inventory for the Lawrence County Area.

I. Background

Section 110(a)(1) of the CAA requires that states submit to EPA plans to maintain the NAAQS promulgated by EPA. EPA interprets this provision to require that areas that were maintenance areas for the 1-hour ozone NAAQS, but attainment for the 8-hour ozone NAAQS, submit a plan to demonstrate the continued maintenance of the 8-hour ozone NAAQS.

On May 20, 2005, EPA issued guidance that applies to areas that are designated unclassifiable/attainment for the 8-hour ozone standard. The purpose of this guidance is to address the maintenance requirements in section 110(a)(1) of the CAA, and to assist the states in the development of a SIP. The components from EPA's guidance include:

(1) An attainment emissions inventory, which is based on actual ''typical summer day'' emissions of volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for a 10-year maintenance period, from a base-year chosen by the state; (2) a maintenance demonstration, which demonstrates how the area will remain in compliance with the 8-hour ozone standard for a period of 10 years following the effective date of designation unclassifiable/attainment (June 15, 2004); (3) an ambient air monitoring network, which will be in continuous operation in accordance with 40 CFR Part 58 to verify maintenance of the 8-hour ozone standard; (4) a contingency plan, that will ensure that in the event of a violation of the 8-hour ozone NAAQS, measures will be implemented as promptly as possible; and (5) a verification of continued attainment, indicating how the state intends on tracking the progress of the maintenance plan.

II. Summary of SIP Revision

The Commonwealth of Pennsylvania has requested approval of its 8-hour ozone maintenance plan and 2002 base-year inventory for the Lawrence County Area. The PADEP 8-hour ozone maintenance plan addresses the five components of EPA's May 20, 2005 guidance, which pertains to the maintenance requirements in section 110(a)(1) of the CAA.

Attainment Emission Inventory: An attainment emissions inventory includes emissions during the time period associated with the monitoring data showing attainment. PADEP has provided an emissions inventory for VOCs and NO_X, using 2002 as the base-year from which to project emissions. The 2002 inventory is consistent with EPA guidance, is based on actual ''typical summer day'' emissions of VOCs and NO_X, and consists of a list of sources and their associated emissions. PADEP prepared comprehensive VOCs and NO_X emissions inventories for the Lawrence County Area. In the maintenance plan, PADEP included information on the man-made sources of ozone precursors, VOCs and NO_X (*e.g.*, ''stationary sources,'' ''stationary area sources,'' ''highway vehicles,'' and ''nonroad sources'').

Pennsylvania projected emissions for beyond 10 years from the effective date of the April 30, 2004 designations for the 8-hour ozone standard. PADEP has developed an emissions inventory for ozone precursors for the year 2002, 2009, and 2018. Tables 1 and 2 show the VOCs and NO_X emissions reduction summary for 2002, 2009, and 2018.

TABLE 1.—VOC EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources	1.07	0.91	1.09
Stationary Area Sources	4.61	4.31	4.58
Highway Vehicles	4.51	2.39	1.35
Nonroad Sources	1.85	1.75	1.38
Total	12.04	9.36	8.40

TABLE 2.—NO_X EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources	21.47	15.24	18.10
Stationary Area Sources	0.55	0.59	0.61
Highway Vehicles	7.78	4.09	1.73
Nonroad Sources	2.98	2.32	1.69
Total	32.78	22.24	22.13

EPA believes Pennsylvania has demonstrated that the VOCs and NO_X emissions in the Lawrence County Area will improve due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, federal measures, and other state-adopted measures.

Maintenance demonstration: As Tables 1 and 2 indicate, the Lawrence County Attainment Area plan shows maintenance of the 8-hour ozone NAAQS by demonstrating that future emissions of VOCs and NO_X remain at or below the 2002 base-year emissions levels through the year 2018.

Based upon the comparison of the projected emissions and the 2002 base-year inventory emissions, along federal and state measures, EPA concludes that PADEP successfully demonstrates that the 8-hour ozone standard will be maintained in the Lawrence County Area. Further details of Lawrence County Attainment Area's 8-hour ozone maintenance demonstration can be found in a Technical Support Document (TSD) prepared for this rulemaking.

Ambient Air Quality Monitoring: With regard to the ambient air monitoring component of the maintenance plan, Pennsylvania commits to continue operating its current air quality monitoring stations in accordance with 40 CFR Part 58, to verify the attainment status of the area, with no reductions in the number of sites from those in the existing network unless pre-approved by EPA.

Contingency Plan: Section 110(a)(1) of the CAA requires that the state develop a contingency plan which will ensure that any violation of a NAAQS is promptly corrected. The purpose of the contingency plan is to adopt measures, outlined in the maintenance plan, in order to assure continued attainment in the event of a violation of the 8-hour ozone NAAQS. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

Contingency measures will be considered if for two consecutive years the fourth highest 8-hour ozone concentrations at the monitor (site number 42–073–0015) in Lawrence County is above 84 parts per billion (ppb). If this trigger point occurs, PADEP will evaluate whether additional local emission control measures should be implemented in Lawrence County in order to prevent a violation of the air quality standard. PADEP will analyze the conditions leading to the excessive ozone levels and evaluate what measures might be most effective in correcting the excessive ozone levels. PADEP will also analyze the potential emissions effect of federal, state, and local measures that have been adopted but not yet implemented at the time the excessive ozone levels occurred. PADEP will then begin the process of implementing the contingency measures outlined in their maintenance plan.

Verification of continued attainment: PADEP will track the attainment status of the 8-hour ozone NAAQS for Lawrence County by reviewing air quality at monitor 42–073–0015 and emissions data during the maintenance period. An annual evaluation of vehicle miles traveled and emissions reported from stationary sources will be performed and compared to the assumptions about the factors used in the maintenance plan. PADEP will also evaluate the periodic (every three years) emission inventories prepared under EPA's Consolidated Emission Reporting Regulation (40 CFR 51, Subpart A) for any unanticipated increases. Based on these evaluations, PADEP will consider whether any further emission control measures should be implemented.

III. Proposed Action

EPA is proposing to approve the maintenance plan and the 2002 base-year inventory for the Lawrence County Area, submitted on December 17, 2007, as revisions to the Pennsylvania SIP. EPA is proposing to approve the maintenance plan and 2002 base-year inventory for the Lawrence County Area because it meets the requirements of section 110(a)(1) of the CAA. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement

Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule to approve the maintenance plan and the 2002 base-year inventory for the Lawrence County Area in the Commonwealth of Pennsylvania does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 14, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E8–11753 Filed 5–23–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0186; FRL–8571–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Section 110(a)(1) 8-Hour Ozone Maintenance Plan and 2002 Base-Year Inventory for the Northumberland County 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 Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) submitted a SIP revision consisting of a maintenance plan that provides for continued attainment of the 8-hour ozone national ambient air quality standard (NAAQS) for at least 10 years after the April 30, 2004 designations, as well as a 2002 base-year inventory for the Northumberland County Area. EPA is proposing approval of the maintenance plan and the 2002 base-year inventory in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 26, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2008–0186 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–2008–0097, 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–2008–0186. 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 Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Melissa Linden, (215) 814–2096, or by e-mail at *linden.melissa@epa.gov.*

SUPPLEMENTARY INFORMATION: On December 17, 2007, PADEP formally submitted for approval, under section 110(a)(1) of the CAA, a SIP revision for the 8-hour ozone maintenance plan and the 2002 base-year inventory for the Northumberland County Area.

I. Background

Section 110(a)(1) of the CAA requires that states submit to EPA plans to maintain the NAAQS promulgated by EPA. EPA interprets this provision to require that areas that were maintenance areas for the 1-hour ozone NAAQS, but attainment for the 8-hour ozone NAAQS, submit a plan to demonstrate the continued maintenance of the 8-hour ozone NAAQS.

On May 20, 2005, EPA issued guidance that applies to areas that are designated unclassifiable/attainment for the 8-hour ozone standard. The purpose of this guidance is to address the maintenance requirements in section 110(a)(1) of the CAA, and to assist the states in the development of a SIP. The components from EPA's guidance include: (1) An attainment emissions inventory, which is based on actual ''typical summer day'' emissions of volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for a 10-year maintenance period, from a base-year chosen by the state; (2) a maintenance demonstration, which demonstrates how the area will remain in compliance with the 8-hour ozone standard for a period of 10 years following the

effective date of designation unclassifiable/attainment (June 15, 2004); (3) an ambient air monitoring network, which will be in continuous operation in accordance with 40 CFR Part 58 to verify maintenance of the 8-hour ozone standard; (4) a contingency plan that will ensure that in the event of a violation of the 8-hour ozone NAAQS, measures will be implemented as promptly as possible; (5) a verification of continued attainment, indicating how the state intends on tracking the progress of the maintenance plan.

II. Summary of SIP Revision

The Commonwealth of Pennsylvania has requested approval of its 8-hour ozone maintenance plan and 2002 base-year inventory for the Northumberland County Area. The PADEP 8-hour ozone maintenance plan addresses the five components of EPA's May 20, 2005 guidance, which pertains to the maintenance requirements in section 110(a)(1) of the CAA.

Attainment Emission Inventory: An attainment emissions inventory includes emissions during the time period associated with the monitoring data showing attainment. PADEP has provided an emissions inventory for VOCs and NO_X, using 2002 as the base-year from which to project emissions. The 2002 inventory is consistent with EPA guidance, is based on actual ''typical summer day'' emissions of VOCs and NO_X, and consists of a list of sources and their associated emissions. PADEP prepared comprehensive VOCs and NO_X emissions inventories for the Northumberland County Area. In the maintenance plan, PADEP included information on the man-made sources of ozone precursors, VOCs and NO_X (e.g., ''stationary sources,'' ''stationary area sources,'' ''highway vehicles,'' and ''nonroad sources'').

Pennsylvania projected emissions for beyond 10 years from the effective date of the April 30, 2004, designations for the 8-hour ozone standard. PADEP has developed an emissions inventory for ozone precursors for the year 2002, 2009, and 2018. Tables 1 and 2 show the VOCs and NO_X emissions reduction summary for 2002, 2009, and 2018.

TABLE 1.—VOC EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources	2.29	2.72	3.51
Stationary Area Sources	4.75	4.45	4.72
Highway Vehicles	4.72	2.66	1.44
Nonroad Sources	4.58	3.51	2.87
Total	16.34	13.34	12.54

TABLE 2.—NO_X EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources	1.41	1.05	1.22
Stationary Area Sources	0.43	0.48	0.50
Highway Vehicles	7.89	4.38	1.83
Nonroad Sources	2.65	2.17	1.55
Total	12.38	8.08	5.10

EPA believes Pennsylvania has demonstrated that the VOCs and NO_X emissions in the Northumberland County Area will improve due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, federal measures, and other state-adopted measures.

Maintenance demonstration: As Table 1 and 2 indicate, the Northumberland County Attainment Area plan shows maintenance of the 8-hour ozone NAAQS by demonstrating that future emissions of VOCs and NO_X remain at or below the 2002 base-year emissions levels through the year 2018.

Based upon the comparison of the projected emissions and the 2002 base-year inventory emissions, along federal and state measures, EPA concludes that PADEP successfully demonstrates that the 8-hour ozone standard will be maintained in the Northumberland County Area. Further details of Northumberland County Attainment Area's 8-hour ozone maintenance demonstration can be found in a Technical Support Document (TSD) prepared for this rulemaking.

Ambient Air Quality Monitoring: With regard to the ambient air monitoring component of the maintenance plan, Pennsylvania commits to continue operating its current air quality monitoring stations in accordance with 40 CFR Part 58, to verify the attainment status of the area, with no reductions in the number of sites from those in the existing network unless pre-approved by EPA.

Contingency Plan: Section 110(a)(1) of the CAA requires that the state develop a contingency plan which will ensure that any violation of a NAAQS is promptly corrected. The purpose of the contingency plan is to adopt measures, outlined in the maintenance plan, in order to assure continued attainment in the event of a violation of the 8-hour ozone NAAQS. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

Since the Northumberland County Area does not have a monitor, contingency measures will be considered if for two consecutive years the fourth highest 8-hour ozone concentrations at the design monitor for the Harrisburg Area are above 84 parts per billion (ppb). If this trigger point occurs, PADEP will evaluate whether

additional local emission control measures should be implemented in Northumberland County in order to prevent a violation of the air quality standard. PADEP will analyze the conditions leading to the excessive ozone levels and evaluate what measures might be most effective in correcting the excessive ozone levels. PADEP will also analyze the potential emissions effect of federal, state, and local measures that have been adopted but not yet implemented at the time the excessive ozone levels occurred. PADEP will then begin the process of implementing the contingency measures outlined in their maintenance plan.

Verification of continued attainment: PADEP will track the attainment status of the 8-hour ozone NAAQS for Northumberland County by reviewing air quality at the design monitor for the Harrisburg Area and emissions data during the maintenance period. An annual evaluation of vehicle miles traveled and emissions reported from stationary sources will be performed and compared to the assumptions about the factors used in the maintenance plan. PADEP will also evaluate the periodic (every three years) emission inventories prepared under EPA's Consolidated Emission Reporting Regulation (40 CFR part 51, subpart A) for any unanticipated increases. Based on these evaluations, PADEP will consider whether any further emission control measures should be implemented.

III. Proposed Action

EPA is proposing to approve the maintenance plan and the 2002 base-year inventory for the Northumberland County Area, submitted on December 17, 2007, as revisions to the Pennsylvania SIP. EPA is proposing to approve the maintenance plan and 2002 base-year inventory for the Northumberland County Area because it meets the requirements of section 110(a)(1) of the CAA. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule to approve the maintenance plan and the 2002 base-year inventory for the Northumberland County Area in the Commonwealth of Pennsylvania does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 14, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E8–11754 Filed 5–23–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0188; FRL–8571–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Section 110(a)(1) 8-Hour Ozone Maintenance Plan and 2002 Base-Year Inventory for the Snyder County 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 Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) submitted a SIP revision consisting of a maintenance plan that provides for continued attainment of the 8-hour ozone national ambient air quality standard (NAAQS) for at least 10 years after the April 30, 2004 designations, as well as a 2002 base-year inventory for the Snyder County Area. EPA is proposing approval of the maintenance plan and the 2002 base-year inventory in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 26, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2008–0188 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–2008–0097, 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–2008–0188. 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 Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Melissa Linden, (215) 814–2096, or by e-mail at *linden.melissa@epa.gov*.

SUPPLEMENTARY INFORMATION: On December 17, 2007, PADEP formally submitted for approval, under section 110(a)(1) of the CAA, a SIP revision for the 8-hour ozone maintenance plan and the 2002 base-year inventory for the Snyder County Area.

I. Background

Section 110(a)(1) of the CAA requires that states submit to EPA plans to maintain the NAAQS promulgated by EPA. EPA interprets this provision to require that areas that were maintenance areas for the 1-hour ozone NAAQS, but attainment for the 8-hour ozone NAAQS, submit a plan to demonstrate the continued maintenance of the 8-hour ozone NAAQS.

On May 20, 2005, EPA issued guidance that applies to areas that are designated unclassifiable/attainment for the 8-hour ozone standard. The purpose of this guidance is to address the maintenance requirements in section 110(a)(1) of the CAA, and to assist the states in the development of a SIP. The components from EPA's guidance include: (1) An attainment emissions inventory, which is based on actual ''typical summer day'' emissions of volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for a 10-year maintenance period, from a base-year chosen by the state; (2) a maintenance demonstration, which demonstrates how the area will remain in compliance with the 8-hour ozone standard for a period of 10 years following the effective date of designation unclassifiable/attainment (June 15, 2004); (3) an ambient air monitoring network, which will be in continuous operation in accordance with 40 CFR Part 58 to verify maintenance of the 8-hour ozone standard; (4) a contingency plan, that will ensure that in the event of a violation of the 8-hour ozone NAAQS, measures will be implemented as promptly as possible; (5) a verification of continued attainment, indicating how the state intends on tracking the progress of the maintenance plan.

II. Summary of SIP Revision

The Commonwealth of Pennsylvania has requested approval of its 8-hour ozone maintenance plan and 2002 base-year inventory for the Snyder County Area. The PADEP 8-hour ozone maintenance plan addresses the five components of EPA's May 20, 2005 guidance, which pertains to the maintenance requirements in section 110(a)(1) of the CAA.

Attainment Emission Inventory: An attainment emissions inventory includes emissions during the time period associated with the monitoring data showing attainment. PADEP has provided an emissions inventory for VOCs and NO_X, using 2002 as the base-year from which to project emissions. The 2002 inventory is consistent with EPA guidance, is based on actual ''typical summer day'' emissions of VOCs and NO_X, and consists of a list of sources and their associated emissions. PADEP prepared comprehensive VOCs and NO_X emissions inventories for the Snyder County Area. In the maintenance plan, PADEP included information on the man-made sources of ozone precursors, VOCs and NO_X (e.g., ''stationary sources,'' ''stationary area sources,'' ''highway vehicles,'' and ''nonroad sources'').

Pennsylvania projected emissions for beyond 10 years from the effective date of the April 30, 2004 designations for the 8-hour ozone standard. PADEP has developed an emissions inventory for ozone precursors for the year 2002, 2009, and 2018. Tables 1 and 2 show the VOCs and NO_X emissions reduction summary for 2002, 2009, and 2018.

TABLE 1.—VOC EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources	1.41	1.74	2.25
Stationary Area Sources	2.97	3.00	3.49
Highway Vehicles	2.66	1.51	0.87
Nonroad Sources	1.57	0.94	0.88
Total	8.61	7.19	7.49

TABLE 2.—NO_X EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources	14.06	16.09	16.85
Stationary Area Sources	0.22	0.25	0.27
Highway Vehicles	4.29	2.26	1.00
Nonroad Sources	1.40	1.09	0.69
Total	19.97	19.69	18.81

EPA believes Pennsylvania has demonstrated that the VOCs and NO_X emissions in the Snyder County Area will improve due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, federal measures, and other state-adopted measures.

Maintenance demonstration: As Table 1 and 2 indicate, the Snyder County Attainment Area plan shows maintenance of the 8-hour ozone

NAAQS by demonstrating that future emissions of VOCs and NO_X remain at or below the 2002 base-year emissions levels through the year 2018.

Based upon the comparison of the projected emissions and the 2002 base-year inventory emissions, along federal and state measures, EPA concludes that PADEP successfully demonstrates that the 8-hour ozone standard will be maintained in the Snyder County Area. Further details of Snyder County Attainment Area's 8-hour ozone maintenance demonstration can be found in a Technical Support Document (TSD) prepared for this rulemaking.

Ambient Air Quality Monitoring: With regard to the ambient air monitoring component of the maintenance plan, Pennsylvania commits to continue operating its current air quality monitoring stations in accordance with 40 CFR Part 58, to verify the attainment status of the area, with no reductions in the number of sites from those in the existing network unless pre-approved by EPA.

Contingency Plan: Section 110(a)(1) of the CAA requires that the state develop a contingency plan which will ensure that any violation of a NAAQS is promptly corrected. The purpose of the contingency plan is to adopt measures, outlined in the maintenance plan, in order to assure continued attainment in the event of a violation of the 8-hour ozone NAAQS. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

Since the Snyder County Area does not have a monitor, contingency measures will be considered if for two consecutive years the fourth highest 8-hour ozone concentrations at the design monitor for the Harrisburg Area are above 84 parts per billion (ppb). If this trigger point occurs, PADEP will evaluate whether additional local emission control measures should be implemented in Snyder County in order to prevent a violation of the air quality standard. PADEP will analyze the conditions leading to the excessive ozone levels and evaluate what measures might be most effective in correcting the excessive ozone levels. PADEP will also analyze the potential emissions effect of federal, state, and local measures that have been adopted but not yet implemented at the time the excessive ozone levels occurred. PADEP will then begin the process of implementing the contingency measures outlined in their maintenance plan.

Verification of continued attainment: PADEP will track the attainment status of the 8-hour ozone NAAQS for Snyder County by reviewing air quality at the design monitor for the Harrisburg Area and emissions data during the maintenance period. An annual evaluation of vehicle miles traveled and emissions reported from stationary sources will be performed and compared to the assumptions about the factors used in the maintenance plan. PADEP will also evaluate the periodic (every three years) emission inventories prepared under EPA's Consolidated Emission Reporting Regulation (40 CFR 51, Subpart A) for any unanticipated increases. Based on these evaluations, PADEP will consider whether any further emission control measures should be implemented.

III. Proposed Action

EPA is proposing to approve the maintenance plan and the 2002 base-year inventory for the Snyder County Area, submitted on December 17, 2007, as revisions to the Pennsylvania SIP. EPA is proposing to approve the maintenance plan and 2002 base-year inventory for the Snyder County Area because it meets the requirements of section 110(a)(1) of the CAA. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule to approve the maintenance plan and the 2002 base-year inventory for the Snyder County Area in the Commonwealth of Pennsylvania does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 14, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E8–11734 Filed 5–23–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0187; FRL–8571–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Section 110(a)(1) 8-Hour Ozone Maintenance Plan and 2002 Base-Year Inventory for the Pike County 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 Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) submitted a SIP revision consisting of a maintenance plan that provides for continued attainment of the 8-hour ozone national ambient air quality standard (NAAQS) for at least 10 years after the April 30, 2004 designations, as well as a 2002 base-year inventory for the Pike County Area. EPA is proposing approval of the maintenance plan and the 2002 base-year inventory in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 26, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2008–0187 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–2008–0097, 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–2008–0187. 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 Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Melissa Linden, (215) 814–2096, or by e-mail at *linden.melissa@epa.gov.*

SUPPLEMENTARY INFORMATION: On December 17, 2007, PADEP formally submitted for approval, under section 110(a)(1) of the CAA, a SIP revision for the 8-hour ozone maintenance plan and the 2002 base-year inventory for the Pike County Area.

I. Background

Section 110(a)(1) of the CAA requires that states submit to EPA plans to maintain the NAAQS promulgated by EPA. EPA interprets this provision to require that areas that were maintenance areas for the 1-hour ozone NAAQS, but attainment for the 8-hour ozone NAAQS, submit a plan to demonstrate the continued maintenance of the 8-hour ozone NAAQS.

On May 20, 2005, EPA issued guidance that applies to areas that are designated unclassifiable/attainment for the 8-hour ozone standard. The purpose of this guidance is to address the maintenance requirements in section 110(a)(1) of the CAA, and to assist the states in the development of a SIP. The components from EPA's guidance include: (1) An attainment emissions inventory, which is based on actual ''typical summer day'' emissions of volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for a 10-year maintenance period, from a base-year chosen by the state; (2) a maintenance demonstration, which demonstrates how the area will remain in compliance with the 8-hour ozone standard for a period of 10 years following the effective date of designation unclassifiable/attainment (June 15, 2004); (3) an ambient air monitoring network, which will be in continuous operation in accordance with 40 CFR Part 58 to verify maintenance of the 8-hour ozone standard; (4) a contingency plan, that will ensure that in the event of a violation of the 8-hour ozone NAAQS, measures will be implemented as promptly as possible; (5) a verification of continued attainment, indicating how the state intends on tracking the progress of the maintenance plan.

II. Summary of SIP Revision

The Commonwealth of Pennsylvania has requested approval of its 8-hour ozone maintenance plan and 2002 base-year inventory for the Pike County Area. The PADEP 8-hour ozone maintenance plan addresses the five components of EPA's May 20, 2005 guidance, which pertains to the maintenance requirements in section 110(a)(1) of the CAA.

Attainment Emission Inventory: An attainment emissions inventory includes emissions during the time period associated with the monitoring data showing attainment. PADEP has provided an emissions inventory for VOCs and NO_X, using 2002 as the base-year from which to project emissions. The 2002 inventory is consistent with EPA guidance, is based on actual

''typical summer day'' emissions of VOCs and NO_X, and consists of a list of sources and their associated emissions. PADEP prepared comprehensive VOCs and NO_X emissions inventories for the Pike County Area. In the maintenance plan, PADEP included information on the man-made sources of ozone precursors, VOCs and NO_X (*e.g.*, ''stationary sources,'' ''stationary area sources,'' ''highway vehicles,'' and ''nonroad sources'').

Pennsylvania projected emissions for beyond 10 years from the effective date of the April 30, 2004 designations for the 8-hour ozone standard. PADEP has developed an emissions inventory for ozone precursors for the year 2002, 2009, and 2018. Tables 1 and 2 show the VOCs and NO_X emissions reduction summary for 2002, 2009, and 2018.

TABLE 1.—VOC EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources*	0.00	0.00	0.00
Stationary Area Sources	2.78	2.72	3.14
Highway Vehicles	2.97	1.70	1.04
Nonroad Sources	5.08	5.12	3.73
Total	10.83	9.54	7.91

* Values are greater than zero. Values appear as zero due to rounding.

TABLE 2.—NO_X EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources*	0.00	0.00	0.00
Stationary Area Sources	0.40	0.48	0.58
Highway Vehicles	8.43	4.95	2.07
Nonroad Sources	1.38	1.24	0.86
Total	10.21	6.67	3.51

* Values are greater than zero. Values appear as zero due to rounding.

EPA believes Pennsylvania has demonstrated that the VOCs and NO_X emissions in the Pike County Area will improve due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, federal measures, and other state-adopted measures.

Maintenance demonstration: As Tables 1 and 2 indicate, the Pike County Attainment Area plan shows maintenance of the 8-hour ozone NAAQS by demonstrating that future emissions of VOCs and NO_X remain at or below the 2002 base-year emissions levels through the year 2018.

Based upon the comparison of the projected emissions and the 2002 base-year inventory emissions, along federal and state measures, EPA concludes that PADEP successfully demonstrates that the 8-hour ozone standard will be maintained in the Pike County Area. Further details of Pike County Attainment Area's 8-hour ozone maintenance demonstration can be found in a Technical Support Document (TSD) prepared for this rulemaking.

Ambient Air Quality Monitoring: With regard to the ambient air monitoring component of the maintenance plan, Pennsylvania commits to continue operating its current air quality monitoring stations in accordance with 40 CFR Part 58, to verify the attainment status of the area, with no reductions in the number of sites from those in the existing network unless pre-approved by EPA.

Contingency Plan: Section 110(a)(1) of the CAA requires that the state develop a contingency plan which will ensure that any violation of a NAAQS is promptly corrected. The purpose of the contingency plan is to adopt measures, outlined in the maintenance plan, in order to assure continued attainment in the event of a violation of the 8-hour ozone NAAQS. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

Since the Pike County Area does not have a monitor, contingency measures will be considered if for two consecutive years the fourth highest 8-hour ozone concentrations at the design monitor for the Scranton-Wilkes Barre Area are above 84 parts per billion (ppb). If this trigger point occurs, PADEP will evaluate whether additional local emission control measures should be implemented in Pike County in order to prevent a violation of the air quality standard. PADEP will analyze the conditions leading to the excessive ozone levels and evaluate what measures might be most effective in correcting the excessive ozone levels. PADEP will also analyze the potential emissions effect of federal, state, and local measures that have been adopted but not yet implemented at the time the excessive ozone levels occurred. PADEP will then begin the process of implementing the contingency measures outlined in their maintenance plan.

Verification of continued attainment: PADEP will track the attainment status of the 8-hour ozone NAAQS for Pike County by reviewing air quality at the design monitor for the Scranton-Wilkes Barre Area and emissions data during the maintenance period. An annual evaluation of vehicle miles traveled and emissions reported from stationary sources will be performed and compared to the assumptions about the factors used in the maintenance plan. PADEP will also evaluate the periodic (every three years) emission inventories prepared under EPA's Consolidated Emission Reporting Regulation (40 CFR 51, Subpart A) for any unanticipated increases. Based on these evaluations, PADEP will consider whether any

further emission control measures should be implemented.

III. Proposed Action

EPA is proposing to approve the maintenance plan and the 2002 base-year inventory for the Pike County Area, submitted on December 17, 2007, as revisions to the Pennsylvania SIP. EPA is proposing to approve the maintenance plan and 2002 base-year inventory for the Pike County Area because it meets the requirements of section 110(a)(1) of the CAA. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule to approve the maintenance plan and the 2002 base-year inventory for the Pike County Area in the Commonwealth of Pennsylvania does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 14, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E8–11752 Filed 5–23–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0184; FRL–8571–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Section 110(a)(1) 8-Hour Ozone Maintenance Plan and 2002 Base-Year Inventory for the Juniata County 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 Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) submitted a SIP revision consisting of a maintenance plan that provides for continued attainment of the 8-hour ozone national ambient air quality standard (NAAQS) for at least 10 years after the April 30, 2004 designations, as well as a 2002 base-year inventory for the Juniata County Area. EPA is proposing approval of the maintenance plan and the 2002 base-year inventory in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 26, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2008–0184 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–2008–0097, 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–2008–0184. 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* website 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 Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Melissa Linden, (215) 814–2096, or by e-mail at *linden.melissa@epa.gov.*

SUPPLEMENTARY INFORMATION: On December 17, 2007, PADEP formally submitted for approval, under section 110(a)(1) of the CAA, a SIP revision for the 8-hour ozone maintenance plan and the 2002 base-year inventory for the Juniata County Area.

I. Background

Section 110(a)(1) of the CAA requires that states submit to EPA plans to maintain the NAAQS promulgated by EPA. EPA interprets this provision to require that areas that were maintenance areas for the 1-hour ozone NAAQS, but attainment for the 8-hour ozone NAAQS, submit a plan to demonstrate the continued maintenance of the 8-hour ozone NAAQS.

On May 20, 2005, EPA issued guidance that applies to areas that are designated unclassifiable/attainment for the 8-hour ozone standard. The purpose of this guidance is to address the maintenance requirements in section 110(a)(1) of the CAA, and to assist the states in the development of a SIP. The components from EPA's guidance include:

(1) An attainment emissions inventory, which is based on actual ''typical summer day'' emissions of volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for a 10-year maintenance period, from a base-year chosen by the state; (2) a maintenance demonstration, which demonstrates how the area will remain in compliance with the 8-hour ozone standard for a period of 10 years following the effective date of designation unclassifiable/attainment (June 15, 2004); (3) an ambient air monitoring network, which will be in continuous operation in accordance with 40 CFR Part 58 to verify maintenance of the 8-hour ozone standard; (4) a contingency plan that will ensure that in the event of a violation of the 8-hour ozone NAAQS, measures will be implemented as promptly as possible; (5) a verification of continued attainment, indicating how the state intends on tracking the progress of the maintenance plan.

II. Summary of SIP Revision

The Commonwealth of Pennsylvania has requested approval of its 8-hour ozone maintenance plan and 2002 base-year inventory for the Juniata County Area. The PADEP 8-hour ozone maintenance plan addresses the five components of EPA's May 20, 2005 guidance, which pertains to the maintenance requirements in section 110(a)(1) of the CAA.

Attainment Emission Inventory: An attainment emissions inventory includes emissions during the time period associated with the monitoring data showing attainment. PADEP has provided an emissions inventory for VOCs and NO_X, using 2002 as the base-year from which to project emissions. The 2002 inventory is consistent with EPA guidance, is based on actual ''typical summer day'' emissions of VOCs and NO_X, and consists of a list of sources and their associated emissions. PADEP prepared comprehensive VOCs and NO_X emissions inventories for the Juniata County Area. In the maintenance plan, PADEP included information on the man-made sources of ozone precursors, VOCs and NO_X (e.g., ''stationary sources,'' ''stationary area sources,'' ''highway vehicles,'' and ''nonroad sources'').

Pennsylvania projected emissions for beyond 10 years from the effective date of the April 30, 2004 designations for the 8-hour ozone standard. PADEP has developed an emissions inventory for ozone precursors for the year 2002, 2009, and 2018. Tables 1 and 2 show the VOCs and NO_X emissions reduction summary for 2002, 2009, and 2018.

TABLE 1.—VOC EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources	0.68	0.67	0.90
Stationary Area Sources	1.48	1.32	1.32
Highway Vehicles	1.92	1.04	0.55
Nonroad Sources	0.90	0.74	0.61
Total	4.98	3.77	3.38

TABLE 2.—NO_X EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources	0.54	0.56	0.61
Stationary Area Sources	0.14	0.16	0.16
Highway Vehicles	3.15	1.72	0.68
Nonroad Sources	2.88	2.22	1.78
Total	6.71	4.66	3.23

EPA believes Pennsylvania has demonstrated that the VOCs and NO_X emissions in the Juniata County Area will improve due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, federal measures, and other state-adopted measures.

Maintenance demonstration: As Tables 1 and 2 indicate, the Juniata County Attainment Area plan shows maintenance of the 8-hour ozone NAAQS by demonstrating that future emissions of VOCs and NO_X remain at or below the 2002 base-year emissions levels through the year 2018.

Based upon the comparison of the projected emissions and the 2002 base-year inventory emissions, along federal and state measures, EPA concludes that PADEP successfully demonstrates that the 8-hour ozone standard will be maintained in the Juniata County Area. Further details of Juniata County Attainment Area's 8-hour ozone maintenance demonstration can be found in a Technical Support Document (TSD) prepared for this rulemaking.

Ambient Air Quality Monitoring: With regard to the ambient air monitoring component of the maintenance plan, Pennsylvania commits to continue operating its current air quality monitoring stations in accordance with 40 CFR part 58, to verify the attainment status of the area, with no reductions in the number of sites from those in the existing network unless pre-approved by EPA.

Contingency Plan: Section 110(a)(1) of the CAA requires that the state develop a contingency plan which will ensure that any violation of a NAAQS is promptly corrected. The purpose of the contingency plan is to adopt measures, outlined in the maintenance plan, in order to assure continued attainment in the event of a violation of the 8-hour ozone NAAQS. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

Since the Juniata County Area does not have a monitor, contingency measures will be considered if for two consecutive years the fourth highest 8-hour ozone concentrations at the design monitor for the Harrisburg Area are above 84 parts per billion (ppb). If this trigger point occurs, PADEP will evaluate whether additional local emission control measures should be implemented in Juniata County in order to prevent a violation of the air quality standard. PADEP will analyze the conditions leading to the excessive ozone levels and evaluate what measures might be most effective in correcting the excessive ozone levels. PADEP will also analyze the potential emissions effect of federal, state, and local measures that have been adopted but not yet implemented at the time the excessive ozone levels occurred. PADEP will then begin the process of implementing the contingency measures outlined in their maintenance plan.

Verification of continued attainment: PADEP will track the attainment status of the 8-hour ozone NAAQS for Juniata County by reviewing air quality at the design monitor for the Harrisburg Area and emissions data during the maintenance period. An annual evaluation of vehicle miles traveled and emissions reported from stationary sources will be performed and compared to the assumptions about the factors used in the maintenance plan. PADEP will also evaluate the periodic (every three years) emission inventories prepared under EPA's Consolidated Emission Reporting Regulation (40 CFR part 51, Subpart A) for any unanticipated increases. Based on these evaluations, PADEP will consider whether any further emission control measures should be implemented.

III. Proposed Action

EPA is proposing to approve the maintenance plan and the 2002 base-year inventory for the Juniata County Area, submitted on December 17, 2007, as revisions to the Pennsylvania SIP. EPA is proposing to approve the maintenance plan and 2002 base-year inventory for the Juniata County Area because it meets the requirements of section 110(a)(1) of the CAA. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule to approve the maintenance plan and the 2002 base-year inventory for the Juniata County Area in the Commonwealth of Pennsylvania does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 14, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E8–11735 Filed 5–23–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 60

[EPA–R08–OAR–2007–0617; FRL–8570–3]

Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for North Dakota; Revisions to the Air Pollution Control Rules and Alternative Monitoring Plan for Mandan Refinery; Delegation of Authority for New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and delegation of authority.

SUMMARY: EPA is proposing to approve revisions to the State Implementation Plan (SIP) as submitted by the Governor of North Dakota with a letter dated March 8, 2007. The revisions affect certain air pollution control rules regarding general provisions, open burning restrictions, permitting, and fugitive emissions. In addition, EPA is proposing to take direct final action approving a revision to a chapter of the SIP regarding an alternative monitoring plan for the Tesoro Mandan Refinery. EPA is also providing notice that on August 22, 2007, North Dakota was delegated authority to implement and enforce certain New Source Performance Standards, as in effect on January 31, 2006. 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 noncontroversial 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 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 June 26, 2008.

ADDRESSES: Submit your comments, identified by DOCKET ID No. EPA–R08–OAR–2007–0617, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: Platt.Amy@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 Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Director, Air Program, EPA Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 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 instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Amy Platt, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, CO 80202–1129, (303) 312–6449, *Platt.Amy@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: May 7, 2008.

Carol Rushin,

Acting Regional Administrator, Region 8.

[FR Doc. E8–11476 Filed 5–23–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 418

[CMS–3844–RCN]

RIN 0938–AH27

Medicare and Medicaid Programs; Hospice Conditions of Participation Extension of Timeline for Publication of Final Rule

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Extension of timeline for publication of final rule.

SUMMARY: This notice announces an extension of the timeline for publication of the ''Medicare and Medicaid Programs; Hospice Conditions of Participation'' final rule. This notice is issued in accordance with section 1871(a)(3)(B) of the Social Security Act (the Act) which requires notice be provided in the **Federal Register** if a final regulation, due to exceptional circumstances, will take longer to publish than 3 years after the publication date of the proposed rule. In this case, the complexity of the rule and scope of comments warrants the extension of the timeline for publication.

DATES: *Effective Date:* This notice is effective on May 27, 2008.

FOR FURTHER INFORMATION CONTACT: Mary Rossi-Coajou, (410) 786–6051, or Danielle Shearer, (410) 786–6617.

SUPPLEMENTARY INFORMATION:

I. Background

On May 27, 2005, we published in the **Federal Register** a proposed rule (70 FR 30840) that would establish new conditions of participation for Medicare-participating hospices. The proposed revisions would focus on the care delivered to patients and their families and the outcomes of that care by reflecting an interdisciplinary, patient-centered approach to care planning and delivery and allowing hospices flexibility in meeting quality standards.

II. Notice of Continuation

This notice announces an extension of the timeline for publication of a final rule responding to comments on the above proposed rule. Section 1871(a)(3)(B) of the Act requires the Secretary to publish final regulations no later than 3 years after the publication date of the proposed rule. To meet this 3-year timeframe, the final rule would have to be published by May 27, 2008.

Section 1871(a)(3)(B) also provides that under ''exceptional circumstances,'' the Secretary may extend the initial targeted publication date of a final regulation. The Secretary is required, prior to the regulation's previously established proposed publication date, to provide public notice of this extension in the **Federal Register**, including a brief explanation of the justification for the variation.

This notice extends the timeline based on the following exceptional circumstances, which we believe, justify such an extension. We are not able to

meet the 3-year timeline for publication of the final rule due to the complexity of the rule and the large number of public comments we received.

We received a large volume of timely comments on the proposed rule. The commenters presented extremely complex and detailed policy and legal issues, which require extensive consultation, review, and analysis. Also, the development of the final rule requires collaboration among other agencies under the Department of Health and Human Services (DHHS). We note that extensive coordination has been needed to ensure that these provisions follow guidelines and rules of all affected administrative agencies.

In addition, this final rule is extremely comprehensive because it updates and revises policies, some of which were originally established in 1983, regarding patient assessment, patient care planning and delivery, quality assessment and performance improvement, drug and biologicals management, inpatient care facilities, and the role of hospice care in long term care facilities. Therefore, the incorporation of these updates has required extensive time, outreach, and collaboration to ensure that the final rule's provisions are consistent with current best practices in the provision of hospice services.

We believe that an extension of the publication timeline is necessary and appropriate to ensure that we are able to address all of the comments and issues raised in response to the May 27, 2005 proposed rule. Therefore, this notice extends the timeline for publication of the final rule until May 27, 2009.

Authority: Section 1871 of the Social Security Act (42 U.S.C. 1395hh).

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 21, 2008.

Ann Agnew,

Executive Secretary to the Department.

[FR Doc. E8–11801 Filed 5–23–08; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7783]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1 percent annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents, and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before August 25, 2008.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community are available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–7783, to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151, or (e-mail) *bill.blanton@dhs.gov*.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151 or (e-mail) *bill.blanton@dhs.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

Administrative Procedure Act Statement. This matter is not a rulemaking governed by the Administrative Procedure Act (APA), 5 U.S.C. 553. FEMA publishes flood elevation determinations for notice and comment; however, they are governed by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and do not fall under the APA.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Ellsworth County, Kansas, and Incorporated Areas				
Smoke Hill River	Approximately 0.65 mile downstream of the bridge on Douglas Avenue.	None	+1533	Unincorporated Areas of Ellsworth County.
	Approximately 0.50 mile upstream of the bridge on Douglas Avenue.	None	+1540	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Unincorporated Areas of Ellsworth County

Maps are available for inspection at 210 North Kansas Street, Ellsworth, KS 67439.

Crittenden County, Kentucky, and Incorporated Areas				
Ohio River	Approximately at confluence with Deer Creek (at upstream county boundary).	None	+355	Unincorporated Areas of Crittenden County.
	Approximately at confluence with Tradewater River (at downstream county boundary).	None	+362	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Unincorporated Areas of Crittenden County

Maps are available for inspection at 107 South Main Street, Marion, KY 42064.

Monmouth County, New Jersey, and Incorporated Areas				
Big Brook	Approximately 34 feet upstream of Boundary Road	None	+79	Township of Colts Neck.
	At Boundary Road	None	+79	
Burkes Creek	Approximately 957 feet upstream of Rutgers Road	None	+100	Township of Howell.
	Approximately 904 feet upstream of Rutgers Road	None	+100	
Deal Lake	Entire shoreline	None	+10	Borough of Interlaken.
Deal Tributary 1	At Wickapecko Drive	None	+11	Borough of Interlaken.
	Approximately 342 feet downstream of Wickapecko Drive.	None	+11	
Doctors Creek	Approximately 915 feet upstream of South Main Street.	None	+72	Township of Upper Freehold.
	Approximately 2,565 feet upstream of South Main Street.	None	+72	
	At Breza Road	None	+60	
	Approximately 57 feet upstream of Breza Road	None	+60	
Hollow Brook	Approximately 133 feet upstream of Ridge Avenue	+10	+13	City of Asbury Park.
	Approximately 176 feet upstream of Ridge Avenue	+10	+13	
Little Silver Creek Tributary 2B.	Approximately 95 feet downstream of Harding Road	+15	+14	Borough of Little Silver.
	Approximately 40 feet upstream of Harding Road	+25	+24	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Manalapan Brook	At County boundary	+75	+76	Township of Manalapan, Township of Millstone.
	Approximately 510 feet upstream of Moonlight Court	None	+181	
Manalapan Brook Tributary A	At confluence with Manalapan Brook	+91	+87	Township of Manalapan.
	Approximately 1,000 feet upstream of confluence with Manalapan Brook.	+92	+89	
Manalapan Brook Tributary B	At confluence with Manalapan Brook	+124	+123	Township of Manalapan.
	Approximately 220 feet upstream of confluence with Manalapan Brook.	+124	+123	
Musquash Brook	Approximately 3,350 feet downstream of Brighton Avenue.	None	+9	Borough of Neptune City.
	Approximately 40 feet downstream of Brighton Avenue.	None	+23	
North Branch	At Railroad	None	+8	Borough of Spring Lake Heights.
Wreck Pond	Approximately 1,147 feet upstream of State Highway 71.	None	+8	
Poly Pond Brook	Approximately 944 feet downstream of State Highway 71.	None	+17	Borough of Spring Lake Heights.
	Approximately 1,563 feet upstream of State Highway 71.	None	+17	
Raritan Bay	Approximately 1,035 feet east of Rose Lane	None	+11	Township of Hazlet, Borough of Keansburg, Borough of Union Beach, Township of Middletown.
	Approximately 570 feet northwest of the intersection of State Highway 36 and Laurel Avenue.	None	+11	
	Approximately 480 feet east of William Street	None	+11	
	Approximately 1,570 feet south of the intersection of State Highway 36 and Thompson Avenue.	None	+11	
Shark River	Approximately 235 feet downstream of Steiner Avenue.	None	+9	Borough of Neptune City.
	Approximately 1,450 feet downstream of County Highway 17.	None	+9	
Still House Brook	At confluence with Manalapan Brook	+94	+93	Township of Manalapan.
	Approximately 600 feet upstream of confluence with Manalapan Brook.	+94	+93	
Swimming River	At Swimming River Road	None	+22	Township of Colts Neck.
Thornes Creek	At Raritan and Sandy Hook Bay Beach Erosion and Hurricane Project Closure Gate.	+4	+11	Township of Hazlet, Borough of Union Beach.
	At State Highway 36	+4	+11	
Waackaack Creek	At Raritan and Sandy Hook Bay Beach Erosion and Hurricane Project Closure Gate.	+4	+11	Township of Hazlet, Borough of Keansburg, Borough of Union Beach, Township of Holmdel.
	Approximately 800 feet downstream of Middle Road	+10	+11	
Watson Creek	Approximately 1,150 feet downstream of Blansing Avenue Extension.	None	+20	Borough of Manasquan.
	Approximately 960 feet downstream of Blansing Avenue Extension.	None	+20	
Whale Pond Brook	At Hope Road	None	+73	Borough of Tinton Falls.
	Approximately 54 feet upstream of Hope Road	None	+73	
Yellow Brook 2	Approximately 600 feet downstream of Hunt Road	None	+98	Township of Colts Neck.
	Approximately 124 feet downstream of Hunt Road	None	+98	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Borough of Interlaken

Maps are available for inspection at Interlaken Borough Hall, 100 Grasmere Avenue, Interlaken, NJ.

Borough of Keansburg

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	

Maps are available for inspection at Keansburg Borough Municipal Building, 29 Church Street, Keansburg, NJ.

Borough of Little Silver
Maps are available for inspection at Little Silver Borough Hall, 480 Prospect Avenue, Little Silver, NJ.

Borough of Manasquan
Maps are available for inspection at Manasquan Borough Municipal Building, 201 East Main Street, Manasquan, NJ.

Borough of Neptune City
Maps are available for inspection at Borough of Neptune City Municipal Building, 106 West Sylvania Avenue, Neptune City, NJ.

Borough of Spring Lake Heights
Maps are available for inspection at Spring Lake Heights Borough Hall, 555 Brighton Avenue, Spring Lake Heights, NJ.

Borough of Tinton Falls
Maps are available for inspection at Tinton Falls Borough Municipal Building, 556 Tinton Avenue, Tinton Falls, NJ.

Borough of Union Beach
Maps are available for inspection at Union Beach Borough Municipal Building, 650 Poole Avenue, Union Beach, NJ.

City of Asbury Park
Maps are available for inspection at City of Asbury Park Municipal Building, One Municipal Plaza, Asbury Park, NJ.

Township of Colts Neck
Maps are available for inspection at Colts Neck Town Hall, 124 Cedar Drive, Colts Neck, NJ.

Township of Hazlet
Maps are available for inspection at Hazlet Township Municipal Building, 1766 Union Avenue, Hazlet, NJ.

Township of Holmdel
Maps are available for inspection at Holmdel Township Hall, 4 Crawfords Corner Road, Holmdel, NJ.

Township of Howell
Maps are available for inspection at Howell Township Municipal Building, 251 Preventorium Road, Howell, NJ.

Township of Manalapan
Maps are available for inspection at Manalapan Township Municipal Building, 120 Route 522 & Taylors Mill Road, Manalapan, NJ.

Township of Middletown
Maps are available for inspection at Middletown Township Municipal Building, One Kings Highway, Middletown, NJ.

Township of Millstone
Maps are available for inspection at Millstone Township Municipal Building, 470 Stage Coach Road, Millstone, NJ.

Township of Upper Freehold
Maps are available for inspection at Upper Freehold Township Municipal Building, 314 Route 539, Cream Ridge, NJ.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: May 15, 2008.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E8–11692 Filed 5–23–08; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7782]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1 percent annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents, and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before August 25, 2008.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community are available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–7782, to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151, or (e-mail) *bill.blanton@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151 or.(e-mail) *bill.blanton@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below,

in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

Administrative Procedure Act Statement. This matter is not a rulemaking governed by the Administrative Procedure Act (APA), 5 U.S.C. 553. FEMA publishes flood elevation determinations for notice and comment; however, they are governed by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and do not fall under the APA.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Town of Highlands, Macon County, North Carolina, and Incorporated Areas				
Mill Creek (Highlands)	The confluence with Cullasaja River	None	+3658	Town of Highlands.
	The confluence of Satulah Branch	None	+3819	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Town of Highlands

Maps are available for inspection at Highlands Town Hall, 210 North Fourth Street, Highlands, NC.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: May 9, 2008.

Michael K. Buckley,

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

[FR Doc. E8–11691 Filed 5–23–08; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R4–ES–2008–0058; 92210–1117–0000–FY08–B4]

RIN 1018–AV51

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Alabama Sturgeon (*Scaphirhynchus suttkusi*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for the Alabama sturgeon (*Scaphirhynchus suttkusi*) under the Endangered Species Act of 1973, as amended (Act). In total, approximately 524 kilometers (326 miles) of river are proposed as critical habitat. The proposed critical habitat includes portions of the Alabama and Cahaba Rivers in Autauga, Baldwin, Bibb, Clarke, Dallas, Lowndes, Monroe, Perry, and Wilcox Counties, in Alabama.

DATES: We will accept comments received or postmarked on or before July 28, 2008. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by July 11, 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–R4–ES–2008–0058; 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: Jeff Powell, Aquatic Species Biologist, U.S. Fish and Wildlife Service, Alabama Ecological Services Field Office, 1208–B Main Street, Daphne, AL 36526; telephone 251/441–5858; facsimile 251/441–6222. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We intend any final action resulting from this proposal to be as accurate and effective as possible. Therefore, we request comments or suggestions on this proposed rule. We particularly seek comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether the benefit of designation would outweigh threats to the species caused by the designation, such that the designation of critical habitat is not prudent;

(2) Specific information on:

- The amount and distribution of Alabama sturgeon habitat, flows needed by the species; and amount and distribution of free-flowing waters within the species' historical or present range,
- What areas occupied at the time of listing that contain features essential to the conservation of the species we should include in the designation and why, and
- What areas not occupied at the time of listing are essential for the conservation of the species and why;

(3) Land-use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Information regarding the potential impacts of this proposed designation on the activities we have identified that may adversely affect critical habitat (see the Application of the ''Adverse Modification'' Standard section), specifically those that are associated with the following actions:

- Actions that would significantly alter the existing flow regime to the point at which the habitat could no longer sustain normal behavior and promote species recovery,
- Actions that would significantly alter the morphology and stability of the river channel,
- Actions that would significantly decrease the amount of currently available free-flowing habitat, and
- Actions that would significantly alter water chemistry beyond what is required in the State of Alabama water quality standards;

(5) Any foreseeable economic, national-security, or other potential impacts resulting from the proposed designation, and, in particular, any impacts on small entities, and the benefits of including or excluding areas that exhibit these impacts; and

(6) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not consider comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section.

If you submit a comment via *http://www.regulations.gov*, your entire comment—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on *http://www.regulations.gov*.

Background

In this proposed rule, we intend to discuss only those topics directly relevant to the distribution of the Alabama sturgeon and the designation of its critical habitat. For more information on the species, refer to the final and proposed listing rules published in the **Federal Register** on May 5, 2000 (65 FR 26438), and on March 26, 1999 (64 FR 14676), respectively.

Sturgeon is the common name used for large, bony-plated, primitive fishes in the family Acipenseridae which typically grow slowly and mature late in life. The Alabama sturgeon (*Scaphirhynchus suttkusi*) is the smallest of all the North American sturgeons, typically weighing only 1 to 2 kilograms (2 to 4 pounds) at maturity. The head is broad and flattened shovel-like at the snout, with a tubular and protrusive mouth. As with all sturgeon species, there are four barbels (whisker-like appendages) located on the bottom of the snout in front of the mouth that are used to locate prey. The body is lined with five rows of bony plates called scutes. Bony plates also cover the head, back, and sides, and the body narrows abruptly to the rear forming a

narrow stalk between the body and tail. The upper lobe of the tail fin is elongated and ends in a long filament. Coloration of the upper body is light tan to golden yellow, with a creamy white belly. The life span of the Alabama sturgeon is unknown. Although few individuals probably exceed 12 to 15 years of age, it is possible the species may live longer.

The Alabama sturgeon is endemic to rivers of the Mobile River Basin below the Fall Line (inland boundary of the Coastal Plain) (Mettee *et al.* 1996, p. 83; Boschung and Mayden 2004, p. 109). Its current range includes the Alabama River from R.F. Henry Lock and Dam downstream to the confluence of the Tombigbee River. The species is also known to survive in the Cahaba River. For information on range of the species see the Criteria Used to Identify Critical Habitat section of this rule.

Despite extensive and intensive efforts in the decade prior to its listing, only eight Alabama sturgeon were captured, or reported captured and released. These fish were collected from several locations in the Alabama River between Millers Ferry Lock and Dam and its confluence with the Tombigbee River (Rider and Hartfield 2007, p. 490). Since the 2000 publication of the final rule listing the species, two Alabama sturgeon have been captured or reported captured. One of these was captured, videotaped, and released in the lower Cahaba River shortly after publication of the final rule by a fisherman in July 2000. The most recent capture was an individual collected from the Alabama River below Claiborne Lock and Dam in April 2007, by the Alabama Department of Conservation and Natural Resources (ADCNR). This fish was implanted with a sonic tag and released in May 2007 at the location at which it was captured.

Flows in the Alabama River are heavily influenced by upstream releases from Alabama Power Company and Corps hydropower projects, and riverine habitats are fragmented by Claiborne and Millers Ferry Locks and Dams. This 240-mile (386-kilometer) stretch of the Alabama River, along with the lower Cahaba River, represents the last remaining viable habitat for the sturgeon.

Previous Federal Actions

On May 5, 2000, we listed the Alabama sturgeon as endangered under the Act (65 FR 26438). In the final listing rule, we determined that designation of critical habitat was prudent but critical habitat was not determinable, due to the lack of information on the sturgeon's biological and habitat needs.

Following this listing decision, the Alabama-Tombigbee Rivers Coalition (Coalition) brought suit in the United States District Court for the Northern District of Alabama under the citizen-suit provision of the Act and the judicial review provisions of the Administrative Procedure Act, alleging several defects in the listing process. The district court dismissed the Coalition's lawsuit for lack of standing, but on appeal the U.S. Court of Appeals for the Eleventh Circuit reversed, concluding that the Coalition did have standing to challenge the listing decision. On remand, the District Court granted the United States' motion for summary judgment but ordered the Service to issue both a proposed and final rule designating critical habitat by May 14, 2006, and November 14, 2006, respectively. *Alabama-Tombigbee Rivers Coalition et al.* v. *Norton et al.*, No. CV–01–0194–VEH (Final Order, Nov. 14, 2005). The Coalition appealed and the District Court stayed the judgment pending review by the Eleventh Circuit. Under the direction of the District Court, the Service would have two years from the time of the Eleventh Circuit's decision to complete the designation of critical habitat.

On February 8, 2007, the Eleventh Circuit affirmed the decision of the District Court, finding among other things that vacating the listing decision was not the proper remedy for failure to designate critical habitat. *Alabama-Tombigbee Rivers Coalition et al.* v. *Kempthorne et al.,* 477 F.3d 1250 (11th Cir. 2007). On May 16, 2007, the Eleventh Circuit issued its judgment as a mandate, thus lifting the stay imposed by the District Court and requiring the Service to issue a prudency determination and, if prudent, a proposed rule designating critical habitat within one year (May 16, 2008), and a final rule designating critical habitat within one year after that (May 16, 2009). It should be noted that the Coalition asked the Supreme Court to review the Eleventh Circuit's decision; that request was denied on January 7, 2008. *Alabama-Tombigbee Rivers Coalition et al.* v. *Kempthorne et al.,* 128 S. Ct. 877 (2008).

For more information on previous Federal actions concerning Alabama sturgeon, refer to the final listing rule, which we published in the **Federal Register** on May 5, 2000 (65 FR 26438). We are proposing this action in accordance with section 4(b)(2) of the Act.

Critical Habitat

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features:

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means the use of all methods and procedures that are necessary to bring any endangered species or threatened species to the point at which the measures provided under the Act are no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against Federal agencies carrying out, funding, or authorizing the destruction or adverse modification of critical habitat. Section 7 of the Act requires consultation on Federal actions that may affect critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by the landowner. Where the landowner seeks or requests federal agency funding or authorization that may affect a listed species or critical habitat, the consultation requirements of section 7 would apply, but even in the event of a destruction or adverse modification finding, the landowner's obligation is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

For inclusion in a critical habitat designation, habitat within the geographical area occupied by the species at the time it was listed must contain features that are essential to the conservation of the species. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)). Occupied habitat that contains the features essential to the conservation of the species meets the definition of critical habitat only if those features may require special

management considerations or protection. Under the Act, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed only when we determine that those areas are essential for the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific and commercial data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be proposed as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge.

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that we may eventually determine, based on scientific data not now available to the Service, are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be required for recovery of the species.

Areas that support populations, but are outside the critical habitat designation, will continue to be subject to conservation actions we implement under section 7(a)(1) of the Act. They are also subject to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available scientific information at the time of the agency action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by section 4(b) of the Act, we used the best scientific data available in determining areas within the geographical area occupied at the time of listing that contain features essential to the conservation of Alabama sturgeon, and areas outside of the geographical area occupied at the time of listing that are essential for the conservation of Alabama sturgeon. We have reviewed available information pertaining to the habitat requirements of this species. This information includes our own published and unpublished data, field notes, unpublished survey reports, communications with qualified experts, peer-reviewed scientific publications, and the final and proposed listing rules for the species. We are not currently proposing any areas outside the geographical area presently occupied by the species because we are unaware of any suitable areas of habitat for this species outside of the area being proposed.

At the time of listing, we lacked the biological and habitat information necessary to identify the primary constituent elements and areas essential for conservation. This lack of information continues to be an issue, since we have only two confirmed Alabama sturgeon captures since publication of the final rule. Therefore, we reviewed the available data and information on the Alabama sturgeon's closest related species, the pallid (*Scaphirhynchus albus*) and the shovelnose sturgeons (*S. platorynchus*). Unfortunately, although both the pallid and shovelnose sturgeons are more abundant and widely distributed, very little specific information is available concerning their biological and physical requirements. However, by synthesizing the best scientific available data on all three species, and considering historical and current conditions at the locations where Alabama sturgeon have been collected, we have identified the physical and biological requirements of the Alabama sturgeon.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and the regulations at 50 CFR 424.12, in determining which areas occupied by the species at the time of listing to propose as critical habitat, we consider the physical and biological features that are essential to the conservation of the species to be the primary constituent elements laid out in the appropriate quantity and spatial arrangement for conservation of the species. These include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of a species.

We derive the specific primary constituent elements (PCEs) required for the Alabama sturgeon from its biological needs.

Space for Individual and Population Growth and for Normal Behavior

All river sturgeons (*Scaphirhynchus spp.*) are migratory and may migrate hundreds of kilometers to spawn. The newly hatched larvae of other river sturgeon are free-floating and may drift hundreds of kilometers before settling to a benthic juvenile existence. Therefore, connectivity of spawning, juvenile, and adult feeding and growing habitats is necessary for the conservation of the species.

Based on collection records, the species is known to inhabit the main channel of large coastal plain rivers of the Mobile River Basin. Specimens have been taken over a variety of substrates including sand, gravel, and mud, from 6 to 14 meters (m) (20 to 46 feet (ft)) deep (Williams and Clemmer 1991, p. 26). The U.S. Army Corps of Engineers identified 30 locations in the Alabama River where 58 Alabama sturgeon were reportedly captured between 1950 and 1998, and documented channel morphology and substrate types at 12 of the capture locations during low flow conditions. Substrates associated with these capture sites included sand, gravel, and limestone outcrops. All capture locations downstream of Claiborne Lock and Dam were either on or within 300 m (984 ft) of a sandbar.

Most historical and recent sturgeon capture sites are at or near features

presumably associated with feeding, reproduction, or refugia and include rock walls, channel training devices, deep pools, mussel beds, and/or stable sand and gravel bottoms (Burke and Ramsey 1985, p. 53, Mayden and Kuhajda 1996, p. 257, Hartfield and Garner 1998, p. 4). The presence of mussel beds represents stable channel habitats with high aquatic invertebrate diversity and density that are likely important feeding areas for sturgeon; deeper holes may be used as thermal refugia during times of low flow and warmer temperatures (Hartfield and Garner 1998, p. 5).

Data collected from a radio-tagged Alabama sturgeon, released in 1985 near Millers Ferry Lock and Dam on the Alabama River and tracked for four months, showed that its preferred position was in swift current at a depth of 7.7 to 12.3 m (25 to 40 ft), but never at the deepest part at any location except where bottom contour was uniform (Burke and Ramsey 1985, p. 32). Irwin *et al.* (2005, p. 5) and Kynard *et al.* (2007, p. 369) documented that adult shovelnose sturgeon are more active at night. This type of behavior was also observed in juvenile shovelnose sturgeon (Kynard *et al.* 2007, p. 369), and a similar pattern is currently being observed by the Alabama sturgeon collected in 2007 that is being tracked in the lower Alabama River (ADCNR and Service unpublished data 2007, 2008). During daylight hours in the summer of 2007, this sturgeon remained in the deeper, flowing portions of the channel. However, during the late afternoon and early evening hours, the sturgeon moved into shallower habitats directly adjacent to a small perennial tributary. We have no evidence that the sturgeon moves into these tributaries; it may be taking advantage of cooler water found at the interface between the tributaries and the main stem of the river. The amount of time this tagged fish spent in these areas suggests these areas are important for feeding or for providing a thermal refugia during the warmer summer months.

Food

Reports suggest that the species is an opportunistic bottom feeder (Mayden and Kuhajda 1996, p. 257, Williams and Clemmer 1991, p. 26, Burke and Ramsey 1985, p. 35). Keevin *et al.* (2007, p. 500) conducted a stomach content analysis on 12 Alabama sturgeon from museum collections and found aquatic insects and fish to be the dominate food items. This is quite similar to the diets of the pallid and shovelnose sturgeons described by Gerrity *et al.* (2006, p. 606) and Hoover *et al.* (2007, p. 494). Except for the absence of fish in the diet of shovelnose sturgeon, all three species tended to feed on similar items, primarily aquatic insects. The insects identified in these studies are found over a variety of substrates including soft and hard rocky bottoms; therefore, protection of most shallow-water habitat (shoals, gravel or sand bars) is essential to maintaining an acceptable food base. A distinct difference observed by Keevin *et al.* (2007, p. 502) in the diet of the Alabama sturgeon was the presence of ceratopogonids (biting midges) and siphlonurids (of a family of mayflies). These small, aquatic larvae are very active, strong swimmers that tend to occupy the water column or areas near the surface (Keevin *et al.* 2007, p. 502), indicating that the sturgeon may be a mid-water column feeder. Irwin *et al.* (2005, p. 39) found that juvenile shovelnose sturgeon overwhelmingly preferred feeding in sandy substrates and actively avoided gravel areas. It is unknown if this behavior is displayed by the Alabama sturgeon, but 2007 tracking data suggest that the species may rest in the deeper, fast-flowing areas during the day and feed in shallow, sandy shoal areas at night (ADCNR and Service unpublished data).

Water Quality

Egg development and hatching and larval and juvenile development require moderate to high levels of dissolved oxygen, as well as acceptable levels of other water quality parameters. For example, research indicates a high incidence of hermaphrodism in shovelnose and pallid sturgeon may be linked to water contamination (U.S. Environmental Protection Agency (USEPA) 2007, p. 4).

There are currently more than 1,600 National Pollutant Discharge Elimination System (NPDES) permits issued within the Alabama River downstream of the Fall Line, which could impact sturgeon habitat. It is possible that some of these point-source discharges, along with other non-point sources of pollutants, could produce pollutant concentrations that may be harmful to the Alabama sturgeon. At the time of listing in May 2000, we believed that State water quality standards (which the State adopted from the national standards set by the USEPA) were protective of the Alabama sturgeon as long as discharges were within permitted limits and enforced according to the provisions of the Clean Water Act (Biggins 1994, p. 4). These water quality requirements were established with the intent to protect all aquatic resources within the State of Alabama and were presumed to be protective of the Alabama sturgeon. However, the Service is currently in consultation with the USEPA to evaluate the protectiveness of criteria approved in USEPA's water quality standards for Alabama sturgeon and other threatened and endangered species and their critical habitats as described in the Memorandum of Agreement our agencies signed in 2001 (66 FR 11201). Other factors that can potentially alter water quality are droughts and periods of low flow, non-point source runoff from adjacent land surfaces (e.g., excessive amounts of nutrients, pesticides, and sediment), and random spills or unregulated discharge events. This could be particularly harmful during drought conditions when flows are depressed and pollutants are more concentrated. Therefore, adequate water quality is essential for normal behavior, growth, and viability during all life stages of the sturgeon, including egg development and hatching, and larval and juvenile development.

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

The Alabama sturgeon is believed to reach sexual maturity between 5 and 7 years of age. Spawning frequency of both sexes is likely influenced by food supply and fish condition, and may occur every 1 to 3 years. Similar to other river sturgeon, the Alabama sturgeon is believed to migrate upstream during the late winter and spring to spawn. These movements are likely extensive and cover long distances.

The capture of 12 individuals (including several gravid females) during a single collection trip near the mouth of the Cahaba River on March 21, 1969, suggests directional movements during the spawning season (Williams and Clemmer 1991, p. 27). Gravid females with ripe eggs have also been collected during late March, April, and early May, which may indicate a prolonged spring spawning or yearly variations in the occurrence of preferred spawning temperatures. Actual timing of spawning during this period may also vary depending on water temperature and river discharge. All sturgeon species produce eggs that are adhesive and require a current for proper development. Although specific locations at which eggs have been deposited have not been identified for the Alabama sturgeon, they are presumably similar to those of other river sturgeons, where eggs are deposited on hard bottom substrates such as bedrock, armored gravel, or channel training works in deep water

areas, and possibly in some larger tributaries, such as the Cahaba River (Burke and Ramsey 1985, p. 53).

Although no information about larval development exists for the Alabama sturgeon, we assume that the Alabama sturgeon may have similar needs as other river sturgeons which require highly oxygenated, long stretches of free-flowing water for development. The larvae are planktonic, drifting with river currents for 12 to 13 days after hatching, and exhibit a swim-up and drift behavior while floating in currents (Kynard *et al.* 2007, p. 365). Research indicates that pallid sturgeon larvae can drift more than 200 kilometers (km) (125 miles (mi)) during the first 11 days of the larval life stage, depending on water velocities, before settling to the benthic environment (Braaten and Fuller 2007, p. 1). It is unclear, at present, whether Alabama sturgeon require distances comparable to those exhibited by pallid sturgeon, but the life history strategy is thought to be the same. A further reduction in the distance of free-flowing habitat currently available would likely be detrimental to the sturgeon.

Riverine Flows and Channel Stability

Flows in the Mobile River Basin have been substantially altered from natural conditions due to the construction and operation of the large number of impoundments. Additionally, the river's temperature, biogeochemical processes that would have occurred in the absence of the dams, and pollution assimilation capabilities have also been altered. Flowing water provides a means for transporting nutrients and food items, moderating water temperatures and dissolved oxygen levels, and diluting pollutants, as well as transporting and suspending developing sturgeon eggs and larvae.

The quality of water, which comprises the sturgeon's chemical habitat, is directly related to the volume of water present in the river. It affects sturgeon behavior, growth, and viability in all life stages. In 1972, prior to the listing of the sturgeon, a 4,640 cubic-feet-per-second flow requirement in the Alabama River at Montgomery was established. This flow, which is approximately the 7Q10 (a measure of lowest 7-day flow measured over a 10-year period) for this section of the river, is believed to be protective of the Alabama sturgeon. We believe this flow would result in the magnitude, frequency, duration, and seasonality of discharge over time that is necessary to maintain all life stages of the species in the riverine environment, including migration, breeding site selection, resting, larval development, protection of cool water refuges during low flow periods, as well as sufficient velocities to inhibit excessive sedimentation.

Aquatic life, including fish, requires acceptable levels of dissolved oxygen. The type of organism and its life stage determine the level of oxygen required. Generally, among the fish, cold water species are the most sensitive, with young life forms being most critical. Temperature, another water quality parameter, is related to dissolved oxygen. The amount of dissolved oxygen that is present in water (the saturation level) depends upon water temperature. As the water temperature increases, the saturated dissolved oxygen level decreases. The more oxygen there is in the water, the greater the assimilative capacity (ability to consume organic wastes with minimal impact) of that water (Pitt 2000, pp. 6–7). Biochemical oxygen demand (BOD) is the oxygen that would be required to stabilize the waste after its discharge into a body of water. Wastewater discharges that have a high BOD will have a much greater detrimental effect on stream dissolved oxygen during critical summer months than they would during colder months. Summer months also have lower stream flow rates, which worsens the problem by further reducing the water's assimilative capacity (Pitt 2000, pp. 6–7). Flows should be sufficient to ensure at least 4 milligrams per liter of dissolved oxygen during low flow periods based on the State water quality standards.

During 2007 and 2008, the Alabama River Basin experienced the worst drought ever recorded. Although this drought is currently recognized as the worst drought in modern history, some researchers believe that it may not have been that unusual (B. Erhardt, U.S. Army Corps of Engineers Meteorologist, pers. comm. 2008). Using bald cypress (a long-lived species) growth rings as an indication, the 2007–08 hydrologic period may have actually been more normal over the last 1000 years than conditions experienced over the last 40 years (which may have been exceptionally wet). Therefore, considering that sturgeon species have survived a range of hydrologic conditions over the years, we believe sturgeon are adapted to these periodic low flow conditions. Although the sturgeon we are currently tracking survived the 2007–08 drought, we do not believe that the Alabama sturgeon is adapted to survive extended drought periods where water quality is compromised by excessive discharges that the river is unable to assimilate. More specifically, as described above, low-flow conditions affect the chemical environment occupied by the fish and extended low-flow conditions coupled with higher pollutant levels would likely result in behavior changes within all life stages, but could be particularly detrimental to early life stages (e.g., eggs and larvae).

Stable river bottoms also are required by the sturgeon. The presence of stable river bottoms has been associated with the recent and historical captures of sturgeon in the Alabama and Tombigbee Rivers. Hartfield and Garner (1998, p. 6) documented the presence of stable substrates interspersed between dredge and disposal sites in the lower Alabama River. These included areas with stable sand and gravel river bottoms, and bedrock walls. The presence of mussel beds and a diverse and dense insect community provide an indication that channel bottoms are relatively stable (Hartfield and Garner 1998, p. 6). As mentioned above, the preferred diet of the sturgeon is aquatic invertebrates; therefore, the presence of mussel beds may be an important indicator of suitable sturgeon feeding habitat. This is consistent with the data that are currently being collected from the sturgeon that was released and tracked in 2007. This fish has remained in the vicinity of well-known mussel beds on the lower Alabama River since its release.

Primary Constituent Elements (PCEs) for the Alabama Sturgeon

Within the geographical area occupied by the Alabama sturgeon at the time of listing, we must identify the PCEs that may require special management considerations or protections.

Based on the above needs and our current knowledge of the life history, biology, and ecology of the species, we have determined that Alabama sturgeon's PCEs are:

1. A range of flows with a minimum 7-day flow of 4,640 cubic feet per second during normal hydrologic conditions, measured in the Alabama River at Montgomery.
2. River channel with stable sand and gravel river bottoms, and bedrock walls, including associated mussel beds.
3. Limestone outcrops and cut limestone banks, large gravel or cobble such as that found around channel training devices, and bedrock channel walls that provide riverine spawning sites with substrates suitable for egg deposition and development.
4. Long sections of free-flowing water to allow spawning migrations and development of eggs and larvae.
5. Water temperature not exceeding 90 °Fahrenheit (32 °Celsius), dissolved

oxygen content over 4 milligrams per liter, and pH (a measure of acidity) within the range of 6.0 to 8.5.

With this proposed designation of critical habitat, we intend to conserve the physical and biological features that are essential to the conservation of the species, through the identification of the appropriate quantity and spatial arrangement of the PCEs sufficient to support the life history functions of the species. The critical habitat unit proposed for designation contains all of the PCEs and supports multiple life processes.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the occupied areas contain the physical or biological features essential to the conservation of the species, and whether these features may require special management considerations or protection. It is recognized that numerous activities in and adjacent to the unit designated as critical habitat, as described in this proposed rule, may affect one or more of the PCEs found in that unit. These activities include, but are not limited to, those listed in the Application of the ''Adverse Modification'' Standard section as activities that may destroy or adversely modify critical habitat. We summarize here the primary threats to the physical and biological features essential to the conservation of the species.

Water quality, as discussed in the Application of the ''Adverse Modification'' Standard section, can influence all life stages of the sturgeon. Water pollution and changes in water quality can originate from either non-point or point source discharges. Non-point source pollution is ubiquitous in the Mobile Basin and can originate from a variety of land use practices (such as livestock grazing, row crop farming, silvicultural, and residential development). The impacts from nearly all non-point source pollutant sources can be managed by implementing the appropriate best management practices. This may include creation and maintenance of riparian buffers, and control of soil loss and runoff from adjacent lands. Point source pollution typically originates from industrial and municipal discharges, but may include any discharge that originates from a single point. Point source pollution can be managed by ensuring that NPDES permitted discharges are within compliance at all times. This requires proper water quality monitoring and record keeping, and ensuring that enough flow is present in the river to assimilate the volume of material that is being discharged.

The Service should be consulted with for disturbances to areas upstream of those known to support sturgeon, including perennial streams that may provide critical thermal refuges to the sturgeon at the interface with the main channel, especially during times when river flows are experiencing abnormally low levels (i.e., during droughts). Therefore, prior to channel-disturbing activities, these areas should be identified and precautions should be taken to ensure that the integrity of these areas is maintained. Minimizing the effects of navigational dredging and channelization (past evidence of which can be seen throughout the historical range of the sturgeon) can be accomplished by avoiding the removal of consolidated bed material and rock walls, and consulting with the Service on the proper disposal areas.

Criteria Used To Identify Critical Habitat

The Alabama sturgeon is extremely rare. Despite extensive and intensive efforts in the decade prior to its listing, only eight Alabama sturgeon were captured, or reported captured and released. All river sturgeons are migratory and may migrate hundreds of kilometers to spawn, and newly hatched larvae may drift hundreds of kilometers before settling. Therefore, connectivity of spawning, juvenile, and adult feeding and developmental habitats is necessary for the conservation of the species.

We began our analysis by evaluating the Alabama sturgeon in the context of its distribution throughout the historical range to determine what portion of the range must be included to ensure conservation of the species. We considered several factors in this evaluation: (1) Inclusion of reaches that provide the highest likelihood of egg and juvenile development, (2) inclusion of reaches that contain suitable spawning habitat, and (3) inclusion of areas that provide protection of the species during low flow periods and other catastrophic events.

The historical range of the Alabama sturgeon included nearly every major basin in the Mobile River basin downstream of the Fall Line, comprising nearly 1,600 km (1,000 mi) of riverine habitat in the Mobile River Basin in Alabama and Mississippi. There are records of Alabama sturgeon from nearly all the major rivers in the Mobile River Basin below the Fall Line, including the Black Warrior, Tombigbee, Alabama, Coosa, Tallapoosa, Mobile, Tensaw, and Cahaba Rivers (Burke and Ramsey 1985, p. 1). However, over the last century, the species has disappeared from at least 85 percent of its historical range, and since the 1960s has experienced a significant decline in the remaining range.

Recent collections (since 1990) of the Alabama sturgeon are confined to the lower Alabama River from its confluence with the Tombigbee River upstream to R.F. Henry Lock and Dam, including the lower Cahaba River (Rider and Hartfield 2007, p. 492). The entire historical range of the Alabama sturgeon is now controlled by a series of more than 25 large locks or dams. These man-made structures have resulted in a series of impoundments that are interspersed with free-flowing reaches of varying lengths. Within the Alabama sturgeon's historical range there are three dams on the Alabama River (completed between 1969 and 1971), two on the Black Warrior River (completed by 1971), and six on the Tombigbee River (completed between 1955 and 1985). These 11 dams alone have impounded and fragmented more than 970 km (583 mi) of riverine habitat once occupied by sturgeon. Prior to construction of these structures, sturgeon could move freely between feeding areas, and from feeding areas to sites that were suitable for spawning and development of eggs and larvae.

The locks and dams that impound the river constitute barriers to sturgeon passage. Although fish species that occupy the middle of the water column (e.g., shad, catfishes, paddlefish) could, and do, pass through the locks while they are being operated, there is no evidence to suggest that sturgeon pass through the lock chambers during normal lockages. Most adult sturgeons, including the Alabama sturgeon, are benthic (bottom-dwelling) cruisers, and are not likely to move up in the water column to scale physical hurdles (Cooke *et al.* 2002, p. 108). The lock chambers at Millers Ferry and Claiborne Locks and Dams have upper and lower sills which form a rather large hurdle (about 30 feet above the river floor at the upper end of Miller Ferry) for sturgeon moving upstream and downstream.

With migration routes impeded, isolated subpopulations of Alabama sturgeon are unable to successfully recruit adequate numbers to replenish the population. Reduced numbers of recruited sturgeon and surviving adult fish can become more vulnerable to localized declines in water and habitat quality caused by hydropower releases, local riverine and land management practices, or by polluted discharges. It is unlikely that Alabama sturgeon habitat and life cycle requirements can be met in long stretches of low flow, such as those that exist in the impounded areas

of the river, where decreased flows typically cause silt and other fine sediments to accumulate over bottom habitats, creating unsuitable conditions for spawning, feeding, and larval growth and development.

The Alabama sturgeon is considered extirpated from the upper Alabama, Black Warrior, Tombigbee, Coosa, Tallapoosa, Mobile, and Tensaw Rivers. The Upper Alabama is isolated by Robert F. Henry Lock and Dam, and this reach of the river is essentially impounded to the confluence of the Coosa and Tallapoosa Rivers, and does not contain appropriate habitat for the conservation of the Alabama sturgeon.

Sturgeon have not been collected from the Black Warrior, Coosa, Tallapoosa or Tombigbee Rivers in more than 30 years. With the exception of the extreme lower Tombigbee River, all of these areas are isolated from currently occupied river reaches and their riverine habitats are impounded and highly fragmented by multiple large river dams. Although some isolated areas within these drainages may contain some of the appropriate habitat features for Alabama sturgeon, their limited extent and the lack of continuity or accessibility to other habitats limits their value to the species.

The Mobile, Tensaw, and lower Tombigbee Rivers are currently accessible to Alabama sturgeon; however, there have been no confirmed collections of the species in more than 20 years. In addition, the natural hydrograph of the lower Mobile Basin has been radically altered by multiple navigation and hydropower dams on the Tombigbee River, and the flows are seasonally highly variable. These areas may be occasionally used or visited by subadult or adult Alabama sturgeon; however, there is no recent evidence that this is occurring and little historical evidence of such use. Although some habitat features occur in these river reaches, their value in conservation of the species is not known.

At the time of listing, we considered the Alabama River from south of Miller's Ferry Lock and Dam to the confluence of the Tombigbee River to be occupied. Shortly after publication of the listing rule, an Alabama sturgeon was captured and released at river mile 8.5 in the Cahaba River. This capture of an adult sturgeon indicated that this area also was occupied at the time of listing, given that the fish could not have reached this area from other sections of the river due to the lock and dam arrangement (see the Riverine Flows and Channel Stability section), and would have been present at the time the rule was published in the **Federal Register**. Given the fish's proximity to the mouth of the Cahaba River and the lack of barriers with the Alabama River section located between R.F. Henry Lock and Dam and the Millers Ferry Lock and Dam, we believe the fish likely to use all of these areas, and, therefore, consider them occupied at the time of listing. There is some evidence of past upstream spawning runs in the Cahaba River as well (Williams and Clemmer 1991, p. 27). Based on historical information and recent collections, we consider all of the following areas to be currently occupied: The Alabama River from R.F. Henry Lock and Dam downstream to the confluence of the Tombigbee River, and the Cahaba River from its confluence with the Alabama River upstream to U.S. Highway 82 which is close to the Fall Line at Centreville, Alabama. Given the lack of appropriate habitat elsewhere within the historical range, we conclude that this proposed designation should include all currently occupied habitat.

Once we determined that the proper scale of the proposed critical habitat designation should cover the area currently occupied by the species, we assessed the critical life history components of Alabama sturgeon as they relate to habitat. Alabama sturgeon use the rivers for spawning, larval and juvenile feeding and development, adult resting, feeding, and staging, and to move between the areas that support these components. Therefore, all areas meeting these requirements were considered for inclusion.

We then investigated the habitat types that support these life history components and where these habitat areas are located. We evaluated empirical data (including that gathered from recent radiotelemetry), recent channel bathymetry data (collected by the U.S. Army Corps of Engineers), as well as published and unpublished literature. These habitat components are described in the Primary Constituent Elements section of this proposed rule.

To determine which areas should be designated as critical habitat, we then evaluated where the necessary physical and biological features of Alabama sturgeon habitat occur within the currently occupied habitat. Detailed location data are included in the unit description in the Proposed Critical Habitat Designation section of this proposed rule. We have determined that these areas occur from the Alabama River, at its confluence with the Tombigbee River, upstream to R.F. Henry Lock and Dam. This also includes the Cahaba River upstream to U.S. Highway 82 near the Fall Line in Bibb County. All of these areas support one or more of the PCEs and are accessible to sturgeon (i.e., not entirely blocked by dams). All life stages are associated with flowing waters and other features characteristic of free-flowing riverine habitats. Nearly the entire length of the Alabama and Cahaba River currently meet these requirements. This area is being proposed as critical habitat to ensure adequate protection of spawning sites, habitat needed for juvenile development, and movement of adult sturgeon to and from spawning areas.

When determining proposed critical habitat boundaries within this proposed rule, we made every effort to avoid including developed areas such as waterways covered by buildings, docks, dams, and other structures because such waterways lack PCEs for Alabama sturgeon. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developments. Any such areas inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, a Federal action involving these areas would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action may affect adjacent critical habitat.

Proposed Critical Habitat Designation

We are proposing to designate one contiguous section of the Alabama River and a portion of the lower Cahaba River as one critical habitat unit for Alabama sturgeon. The areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for the Alabama sturgeon. The single unit we propose as critical habitat is the Alabama River from its confluence with the Tombigbee River, Clarke and Baldwin Counties, Alabama, upstream to R.F. Henry Lock and Dam, Autauga and Lowndes Counties, Alabama; and the Cahaba River from its confluence with the Alabama River upstream to U.S. Highway 82 near the Fall Line in Bibb County, Alabama.

Following review of all areas within the range of the species, we have determined that the proposed critical habitat area meets the definition of critical habitat.

Table 1 shows the occupied unit, land ownership and approximate area.

TABLE 1.—OCCUPANCY OF ALABAMA STURGEON AND LAND OWNERSHIP OF THE PROPOSED CRITICAL HABITAT UNIT

Critical habitat unit	Occupied at time of listing	Currently occupied	Size of unit in kilometers (miles)	Land ownership by type
Alabama and Cahaba Rivers	yes	yes	524 (326)	State.

Below, we present a brief description of the unit and reasons why it meets the definition of critical habitat for the Alabama sturgeon.

Unit: Alabama and Cahaba Rivers, Alabama

The critical habitat unit encompasses 524 km (326 mi) of river channel. The portion of river channel in the Alabama River extends 394 km (245 mi) from its confluence with the Tombigbee River, Baldwin and Clarke Counties, Alabama, upstream to R.F. Henry Lock and Dam, Autauga and Lowndes Counties, Alabama; and the portion of river channel in the Cahaba River extends 130 km (81 mi) from its confluence with the Alabama River, Dallas County, Alabama, upstream to U.S. Highway 82, Bibb County, Alabama. The Alabama and Cahaba Rivers are the last known areas that still support the sturgeon, both of which were occupied at the time of listing. This was recently confirmed by the 2007 collection of an individual from the Alabama River below Claiborne Lock and Dam, and the 2000 collection of an individual from the lower Cahaba River (ADCNR pers. comm. 2007). Although the Alabama River, within this unit, contains two physical barriers (Claiborne and Millers Ferry Locks and Dams), it supports the PCEs to sustain this extremely rare fish. The single critical habitat unit includes the channel of the rivers and streams listed between the ordinary high water mark on each bank, which is defined in 33 CFR 329.11 as ''the line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank; shelving; changes in the character of the soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.'' The distances between landmarks marking the upstream and downstream boundaries of the unit are given in kilometers and equivalent miles, as measured by tracing the thalweg (a line connecting the lowest points of successive cross sections) of the stream, not the straight-line distance. River miles referenced in this rule were taken from a Corps of Engineers 1985 stream mileage table.

The river channel within the entire unit is owned by the State of Alabama, and the vast majority of adjacent lands are under private ownership, with the exception of a portion of the Cahaba River that includes Talladega National Forest (Oakmulgee Division). Although the Oakmulgee Division encompasses a total of 63,483.7 hectares (ha) (156,871 acres (ac)), there are only about 9,951.6 ha (24,591 ac) that are directly adjacent to the Cahaba River. The Barton Beach Reserve, a small tract owned by The Nature Conservancy, encompasses 45.3 ha (112 ac) and covers approximately 1,150 meters (m) (3,773 ft) along the Cahaba River. This unit meets the definition of critical habitat based on the discussion above and contains all PCEs. This unit was known to be occupied at the time of listing and is currently occupied. Special management of the PCEs for the Alabama sturgeon and its habitat may be required for the following threats: low flow conditions, detrimental changes in water quality, reduction in the amount of free-flowing habitat, and detrimental changes to the morphology or stability of the river channel.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify designated critical habitat. Decisions by the 5th and 9th Circuit Courts of Appeals have invalidated our definition of ''destruction or adverse modification'' (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F.3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.*, 245 F.3d 434, 442F (5th Cir 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the PCEs to be functionally established) to serve its intended conservation role for the species.

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. We may issue a formal conference report if requested by a Federal agency. Formal conference reports on proposed critical habitat contain an opinion that is prepared according to 50 CFR 402.14, as if critical habitat were designated. We may adopt the formal conference report as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)). The conservation recommendations in a conference report are advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that are likely to adversely affect listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species or destroy or adversely modify critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. We define ''Reasonable and Prudent Alternatives'' at 50 CFR 402.02 as

alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Director's opinion, avoid jeopardizing the continued existence of the listed species or destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

When we issue a biological opinion concluding that a project is not likely to jeopardize a listed species or adversely modify critical habitat, but may result in incidental take of listed animals, we provide an incidental take statement that specifies the impact of such incidental taking on the species. We then define ''Reasonable and Prudent Measures'' considered necessary or appropriate to minimize the impact of such taking. Reasonable and prudent measures are binding measures the action agency must implement to receive an exemption to the prohibition against take contained in section 9 of the Act. These reasonable and prudent measures are implemented through specific ''Terms and Conditions'' that must be followed by the action agency or passed along by the action agency as binding conditions to an applicant. Reasonable and prudent measures, along with the terms and conditions that implement them, cannot alter the basic design, location, scope, duration, or timing of the action under consultation and may involve only minor changes (50 CFR 402.14). The Service may provide the action agency with additional conservation recommendations, which are advisory and not intended to carry binding legal force.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies may sometimes need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Federal activities that may affect Alabama sturgeon or its designated critical habitat will require section 7(a)(2) consultation under the Act. Activities on State, Tribal, local or private lands requiring a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from us under section 10(a)(1)(B) of the Act) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) are examples of agency actions that may be subject to the section 7(a)(2) consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, Tribal, local or private lands that are not federally funded, authorized, or permitted, do not require section 7(a)(2) consultations.

Application of the ''Adverse Modification'' Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species, or would retain its current ability for the primary constituent elements to be functionally established. Activities that may destroy or adversely modify critical habitat are those that alter the physical and biological features to an extent that appreciably reduces the conservation value of critical habitat for Alabama sturgeon. Generally, the conservation role of Alabama sturgeon critical habitat unit is to support the various life-history needs of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that, when carried out, funded, or authorized by a Federal agency, may adversely affect critical habitat and, therefore, should result in consultation for Alabama sturgeon include, but are not limited to the following (please see Special Management Considerations or Protection section for a more detailed discussion on the impacts of these actions to the listed species):

(1) Actions that would significantly alter the existing flow regime to the point at which the habitat could no longer sustain normal behavior and promote species recovery. Such activities could include, but are not limited to, construction and operation of dams, water withdrawals, and channelization. These activities could eliminate or reduce spawning habitats, impair the development of eggs and larvae, impede or eliminate normal migration patterns, reduce the ability of the river to adequately assimilate pollution, and compromise the integrity and utility of cool water refuges (perennial tributaries). In addition, flows less than 4,640 cubic feet per second, as determined by the U.S. Army Corps of Engineers at Montgomery, would need to be evaluated on an individual basis to determine if they may affect the critical habitat, and conclusions could be dependent, in part, on intervening flows (e.g., Catoma Creek, Cahaba River), water temperature, and dissolved oxygen content in the Alabama River downstream of Montgomery. Dependent on these factors and conditions in the river at the time of the consultation, a Not Likely to Adversely Affect Determination could still be possible.

(2) Actions that would significantly alter the morphology and stability of the river channel. Such activities would include, but are not limited to, dredging and mining of consolidated bed material, impoundments, road and bridge construction, and destruction of riparian vegetation. These activities could eliminate suitable substrates for egg deposition and development, increase turbidity, and initiate erosion along the banks, which could increase water temperatures and reduce the width of the riparian zone.

(3) Actions that would significantly decrease the amount of currently available free-flowing habitat. Such activities would include, but are not limited to, construction and operation of dams, water withdrawals, and diversions. These activities could further minimize the currently available length of free-flowing habitat to support spawning migrations and development of eggs and larvae.

(4) Actions that would significantly alter water chemistry beyond what is required in the State of Alabama water quality standards. Such activities would include, but are not limited to, the discharge of chemicals, biological pollutants, nutrients, and other toxic substances that originate from non-point or point source discharges. These

substances could directly, or through accumulation in tissue, impair sturgeon behavior, reproduction, and growth.

We consider the unit proposed as critical habitat to contain features essential to the conservation of Alabama sturgeon. The unit is within the geographic range of the species, it was occupied by the species at the time of listing, and it is currently occupied. Federal agencies already consult with us on activities that may affect the species, to ensure that their actions do not jeopardize the continued existence of Alabama sturgeon.

Exemptions and Exclusions

Following review of all areas within the range of the species, we have determined that the proposed critical habitat area meets the definition of critical habitat.

Application of Section 4(a)(3) of the Act

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) amended the Act to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) now provides: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Improvement Act of 1997 (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.''

There are no Department of Defense lands with a completed integrated natural resources management plan within the proposed critical habitat designation.

Application of Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary must designate and revise critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the legislative history is clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

Under section 4(b)(2) of the Act, in considering whether to exclude a particular area from the designation, we must identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and determine whether the benefits of exclusion outweigh the benefits of inclusion. If based on this analysis, we make this determination, then we can exclude the area only if such exclusion would not result in the extinction of the species.

In the following sections, we address a number of general issues that are relevant to the exclusions we are considering. In addition, we are conducting an economic analysis of the impacts of the proposed critical habitat designation and related factors, which will be available for public review and comment when it is complete. Based on public comment on that document, the proposed designation itself, and the information in the final economic analysis, the Secretary may exclude from critical habitat additional areas beyond those identified in this assessment under the provisions of section 4(b)(2) of the Act. This is also addressed in our implementing regulations at 50 CFR 424.19.

Under section 4(b)(2) of the Act, we must consider economic impacts. We also consider a number of factors in a section 4(b)(2) analysis. For example, we consider whether there are lands owned or managed by the Department of Defense where a national security impact might exist. We also consider whether landowners having proposed critical habitat on their lands have developed any conservation plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any Tribal issues, and consider the government-to-government relationship of the United States with Tribal entities. We also consider any social or other impacts that might occur because of the designation.

In preparing this proposal, we have determined that the lands within the proposed designation of critical habitat for the Alabama sturgeon are not owned or managed by the Department of Defense, there are currently no HCPs for the Alabama sturgeon, and the proposed designation does not include any Tribal lands or trust resources.

We anticipate no impact to national security, Tribal lands, partnerships, or HCPs from this proposed critical habitat designation. Based on the best available information, we believe that this unit contains the features essential to the species. As such, we have considered but not excluded any lands from this proposed designation. However, during the development of a final designation, we will be considering economic impacts, public comments, and other new information, and areas may be excluded from the final critical habitat designation under section 4(b)(2) and our implementing regulations at 50 CFR 424.19.

Economics

Section 4(b)(2) of the Act allows the Secretary to exclude areas from critical habitat for economic reasons if the Secretary determines that the benefits of such exclusion exceed the benefits of designating the area as critical habitat. However, this exclusion cannot occur if it will result in the extinction of the species concerned.

We are preparing an analysis of the economic impacts of proposing critical habitat for Alabama sturgeon. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the Internet at the Federal eRulemaking Portal: *http://www.regulations.gov*, or by contacting the Alabama Ecological Services Field Office directly (see **FOR FURTHER INFORMATION CONTACT**). We may exclude areas from the final rule based on the information in the economic analysis.

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we are obtaining the expert opinions of at least three appropriate independent specialists regarding this proposed rule. The purpose of peer review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. We have invited these peer reviewers to comment during this public comment period on our specific assumptions and conclusions in this proposed designation of critical habitat.

We will consider all comments and information we receive during this comment period on this proposed rule during our preparation of a final determination. Accordingly, our final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if we receive any requests for hearings. We

must receive your request for a public hearing within 45 days after the date of this **Federal Register** publication. Send your request to the person named in the **FOR FURTHER INFORMATION CONTACT** section. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the first hearing.

Required Determinations

Regulatory Planning and Review

The Office of Management and Budget (OMB) has determined that this rule is not significant and has not reviewed this rule under Executive Order (E.O.) 12866. OMB bases its determination upon the following four criteria:

(1) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(2) Whether the rule will create inconsistencies with other Federal agencies' actions.

(3) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(4) Whether the rule raises novel legal or policy issues.

At this time, we lack the available economic information necessary to determine whether the rule would have an annual effect on the economy of $100 million or more or affect the economy in a material way.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency must publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended RFA to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

At this time, we lack the available economic information necessary to provide an adequate factual basis for the required RFA finding. Therefore, we defer the RFA finding until completion of the draft economic analysis prepared under section 4(b)(2) of the Act and E.O. 12866. This draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, we will announce availability of the draft economic analysis of the proposed designation in the **Federal Register** and reopen the public comment period for the proposed designation. We will include with this announcement, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. We have concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the RFA. Deferring the RFA finding in this manner will ensure that we make a sufficiently informed determination based on adequate economic information and provide the necessary opportunity for public comment.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or [T]ribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and [T]ribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because the lands being proposed for critical habitat designation are river bottoms owned by the State of Alabama and do not fit the definition of ''small governmental jurisdiction.'' Therefore, a Small Government Agency Plan is not required. However, as we conduct our economic analysis, we will further evaluate this issue and revise this assessment if appropriate.

Takings

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for Alabama sturgeon in a takings implications assessment. The takings implications assessment concludes that this designation of critical habitat for Alabama sturgeon does not pose

significant takings implications for lands within or affected by the designation.

Federalism

In accordance with E.O. 13132, this proposed rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in Alabama. The designation of critical habitat in areas currently occupied by the Alabama sturgeon imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments because the areas that contain physical and biological features essential to the conservation of the species are more clearly defined, and the primary constituent elements necessary to support the life processes of the species are specifically identified. This information does not alter where and what federally-sponsored activities may occur. However, it may assist local governments in long-range planning (rather than having them wait for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with E.O. 12988 (Civil Justice Reform), it has been determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Act. This proposed rule uses standard property descriptions and identifies physical and biological features essential to the conservation of the species within the designated areas to assist the public in understanding the habitat needs of the Alabama sturgeon.

Paperwork Reduction Act of 1995

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (NEPA)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses as defined by NEPA (42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951), E.O. 13175, and the Department of the Interior's manual at 512 DM 2, and Secretarial Order 3206, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We have determined that there are no Tribal lands that meet the definition of critical habitat for Alabama sturgeon. Therefore, we have not proposed designation of critical habitat for Alabama sturgeon on Tribal lands.

Energy Supply, Distribution, or Use

On May 18, 2001, the President issued an Executive Order (E.O. 13211; Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. There are currently two hydroelectric dams (Robert F. Henry and Millers Ferry Locks and Dams) located on portions of the rivers under consideration for designation of critical habitat. Both Robert F. Henry and Millers Ferry Locks and Dams are located on the Alabama River and are owned and operated by the U.S. Army Corps of Engineers, and have total generating capacities of 68 and 75 megawatts, respectively. Hydroelectric production was likely impacted by low flows resulting from recent drought conditions; however, under normal hydrologic conditions, where flows at Montgomery equal a 7-day average of 4,640 cubic feet per second, flows would not be altered by this designation of critical habitat. With designation of critical habitat, the Service's ongoing consultation and future consultations with the U.S. Army Corps of Engineers on their management of the Mobile River Basin reservoirs regarding the Alabama sturgeon will require assessment of potential impacts to critical habitat. However, these consultations were already required because of the presence of Alabama sturgeon in the rivers that are being proposed for designation. Flow recommendations for the Alabama sturgeon remain the same as the levels we consulted on prior to the designation. Consequently, we do not expect this proposed rule to designate critical habitat for Alabama sturgeon to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required. However, we will further evaluate this issue as we conduct our economic analysis, and review and revise this assessment as warranted.

References Cited

To obtain a complete list of all references we cited in this rulemaking, contact the Field Supervisor, Alabama Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Author(s)

The primary authors of this package are the staff of the Alabama Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Public Law 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h), revise the entry for ''Sturgeon, Alabama'' under ''Fishes'' in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
FISHES							
*	*	*	*	*	*	*	
Sturgeon, Alabama ..	*Scaphirhynchus suttkusi.*	U.S.A. (AL, MS)	NA	E	697	17.95(e)	NA
*	*	*	*	*	*	*	

3. In § 17.95, amend paragraph (e) by adding an entry for ''Alabama sturgeon (*Scaphirhynchus suttkusi*),'' in the same alphabetical order that the species appears in the table at § 17.11(h), between the existing entries for Colorado squawfish and Gulf Sturgeon, to read as follows:

§ 17.95 Critical habitat-fish and wildlife.

* * * * *

(e) Fishes

* * * * *

Alabama sturgeon (*Scaphirhynchus suttkusi*)

(1) Critical habitat unit is depicted for Baldwin, Monroe, Wilcox, Clarke, Dallas, Lowndes, Autauga, Bibb, and Perry Counties, Alabama, on the map below.

(2) The primary constituent elements of critical habitat for the Alabama sturgeon are:

(i) A range of flows with a minimum 7-day flow of 4,640 cubic feet per second, during normal hydrologic conditions, measured in the Alabama River at Montgomery.

(ii) River channel with stable sand and gravel river bottoms, and bedrock walls, including associated mussel beds.

(iii) Limestone outcrops and cut limestone banks, large gravel or cobble such as that found around channel training devices, and bedrock channel walls that provide riverine spawning sites with substrates suitable for egg deposition and development.

(iv) Long sections of free-flowing water to allow spawning migrations and development of eggs and larvae.

(v) Water temperature not exceeding 90 °Fahrenheit (32 °Celsius), dissolved oxygen content over 4 milligrams per liter, and pH within the range of 6.0 to 8.5.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, docks, dams, runways, roads, and other paved areas) and the land or waterway on which they are located existing within the legal boundaries on the effective date of this rule.

(4) Critical habitat map unit. Data layers defining the map unit were created on a base of USGS 7.5′ quadrangles, and the critical habitat unit was then mapped using Universal Transverse Mercator (UTM) coordinates.

(5) Unit: *Alabama and Cahaba Rivers; Baldwin, Monroe, Wilcox, Clarke, Dallas, Lowndes, Autauga, Perry, and Bibb Counties, Alabama*

The unit encompasses 524 km (326 mi) of river channel. The portion of river channel in the Alabama River extends 394 km (245 mi) from its confluence with the Tombigbee River, Baldwin and Clarke Counties, Alabama, upstream to R.F. Henry Lock and Dam, Autauga and Lowndes Counties, Alabama; and the portion of river channel in the Cahaba River extends 130 km (81 mi) from its confluence with the Alabama River, Dallas County, Alabama, upstream to U.S. Highway 82, Bibb County, Alabama.

Note: Map of Unit, *Critical Habitat for Alabama Sturgeon (Scaphirhynchus suttkusi): Alabama and Cahaba Rivers,* follows:

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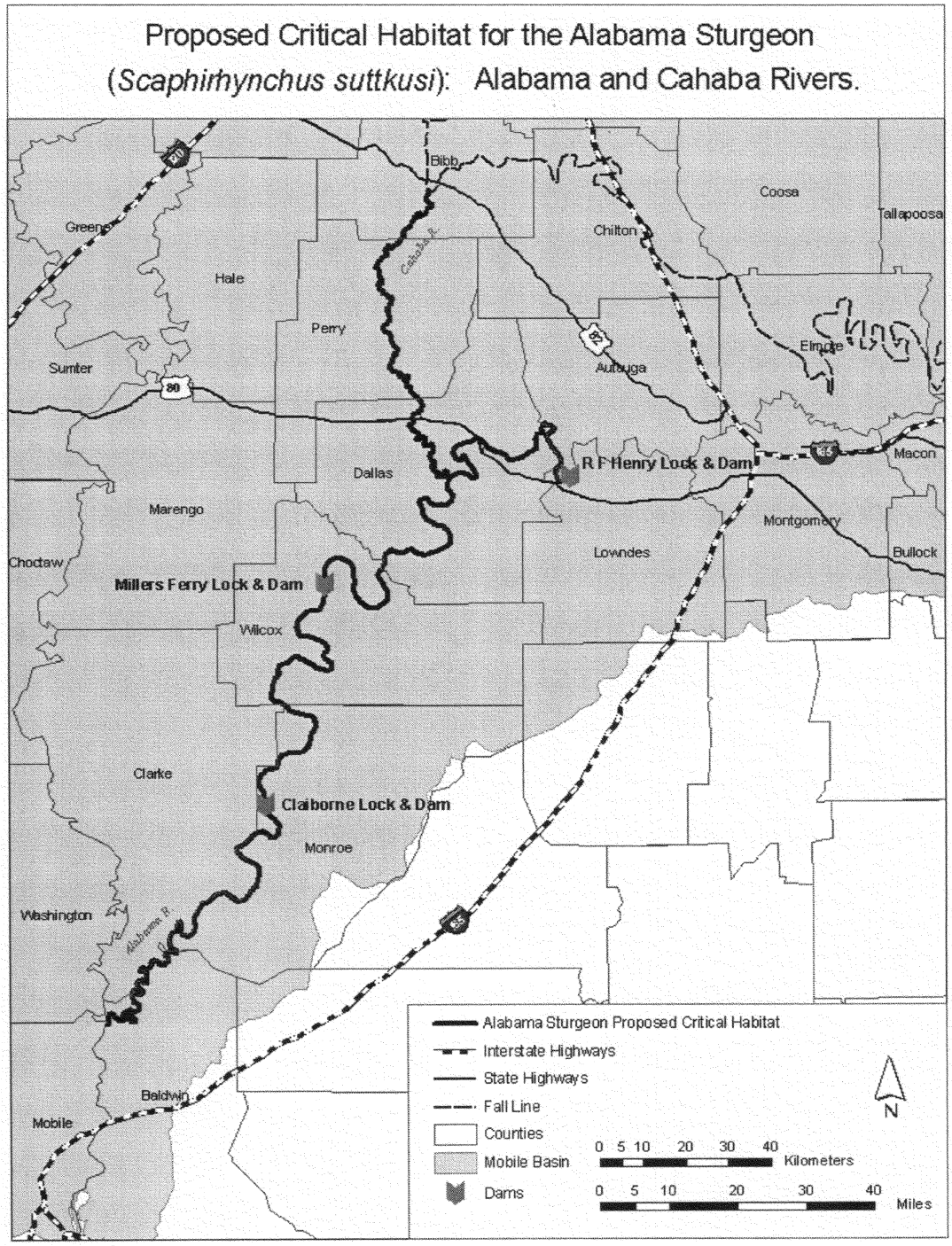

* * * * *

Dated: May 15, 2008.

Lyle Laverty,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E8–11461 Filed 5–23–08; 8:45 am]

BILLING CODE 4310–55–C

Notices

Federal Register
Vol. 73, No. 102
Tuesday, May 27, 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

Submission for OMB Review; Comment Request

May 20, 2008.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Small Business Timber Set-Aside Program: Appeal Procedures on Recomputation of Shares.

OMB Control Number: 0596–0141.

Summary of Collection: The Conference Report accompanying the 1997 Omnibus Appropriation Act (Pub L. 104–208) requires that the Forest Service (FS) establish a process by which purchasers may appeal decisions concerning recomputations of Small Business Set-aside (SBA) shares or structural recomputations of SBA shares, or changes in policies impacting the Small Business Timber Sale Set-Aside Program. FS adopted the Small Business Timber Sale Set-Aside Program on July 26, 1990. FS administers the program in cooperation with the Small Business Administration under the authorities of the Small Business Act of 1988, the National Forest Management Act of 1976, and SBA's regulations at Part 121 of Title 13 of the Code of Federal Regulations. The program is designed to ensure that small business timber purchasers have the opportunity to purchase a fair proportion of National Forest System timber offered for sale.

Need and Use of the Information: The information collected is submitted via e-mail and attached documents to a Forest Service Officer to review any appeal of decisions related to recomputations of timber sale shares to be set-aside for small business timber purchasers.

Description of Respondents: Business or other for-profit.

Number of Respondents: 40.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 320.

Forest Service

Title: Perception of Risk, Trust, Responsibility, and Management Preferences Among Fire Prone Communities.

OMB Control Number: 0596–0186.

Summary of Collection: The Forest and Rangeland Renewable Resource Research Act of 1978 (Pub. L. 95–307), direct the Secretary of Agriculture to conduct, support, and cooperate in investigations, experiments, tests, and other activities the Secretary deems necessary to obtain, analyze, develop, demonstrate, and disseminate scientific information about protecting, managing, and utilizing forest and rangeland renewable resources in rural, suburban, and urban areas. Fire risk and the impact of recent fires have been significant on several Western urban-proximate national forests. The Forest Service (FS) is proposing to expand the scope of the initial information collection to other fire-prone communities in the western United States. FS will conduct a study using a questionnaire to gain first-hand information from residents in communities proximate to and surrounded by urban national forests in the Western United States. The information gathered will help resource managers better understand the beliefs, perceptions, and behaviors of those residents.

Need and Use of the Information: The Agency needs to know how residents have been addressing fire risk, residents' beliefs about individual responsibility in reducing fire risk, and the myriad of other concerns residents have related to fire and fire risk. Results from the information collected will be helpful in managing fire education and information programs, continuing public collaboration efforts, and in the selection of fire management and risk mitigation strategies. Other fire management agencies and organizations will also benefit from this knowledge. The information collected will be used to construct a technical report on findings, to prepare journal articles for submission to peer view outlets, for presentations at scientific meetings, and for presentations to natural resource managers as appropriate. Without the information management decisions will be made on limited and anecdotal information regarding public values and perceptions as well as perceived responsibility in management of fire risk.

Description of Respondents: Individuals or households.

Number of Respondents: 270.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 485.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E8–11708 Filed 5–23–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Emergency Conservation Program

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: U.S. Department of Agriculture, Farm Service Agency (FSA) announces the availability of a Draft Supplemental Environmental Impact Statement (SEIS) for potential changes to the Emergency Conservation Program (ECP). ECP provides emergency funding to farmers and ranchers who have suffered damage to their agricultural lands as a result of a natural disaster. The goals of ECP are to restore farmland (currently, cropland, hayland, and pastureland) to a normal productive state after a natural disaster and provide assistance to producers to carry out emergency water conservation or enhancing measures in times of severe drought. The potential changes (proposed action) under consideration include expanding ECP eligibility to other types of farmland, namely timberland, farmsteads, roads, and feedlots. If FSA implements the changes, FSA would publish a proposed rule to reflect changes to the policy. The draft SEIS is available for public comment. The draft SEIS analyzes the impacts of the proposed action on the nation's environmental resources and economy. FSA analyzed the no action alternative (continuation of current program) to provide an environmental baseline.

DATES: To ensure that the full range of issues and alternatives related to the ECP are addressed, FSA requests comments. We will consider comments that we receive by June 26, 2008. We will consider comments submitted after this date to the extent possible.

ADDRESSES: We invite you to submit comments on this notice. Send written comments on the draft SEIS and requests for copies of the draft SEIS to ECP SEIS, c/o Geo-Marine Incorporated, 2713 Magruder Blvd., Suite D, Hampton, VA 23666–1572; or comment via the Web or request a hardcopy of the Draft SEIS by logging on to *http://public.geo-marine.com.*

FOR FURTHER INFORMATION CONTACT: Matthew T. Ponish, National Environmental Compliance Manager, USDA FSA CEPD, Stop 0513, 1400 Independence Ave., SW., Washington, DC 20250–0513, (202) 720–6853, or e-mail at: *Matthew.Ponish@wdc.usda.gov.* More detailed information on ECP may be obtained from FSA's Web site: *http://www.fsa.usda.gov/FSA/webapp?area=home&subject=copr&topic=ecp.*

Signed in Washington, DC, on May 20, 2008.

Teresa C. Lasseter,

Administrator, Farm Service Agency.

[FR Doc. E8–11774 Filed 5–23–08; 8:45 am]

BILLING CODE 3410–05–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Vermont Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that orientation and planning meetings of the Rhode Island Advisory Committee to the Commission will convene at 12:30 p.m. on Thursday, June 12, 2008, in the Billings North Lounge located at 48 University Place at the University of Vermont in Burlington, VT. The purpose of these meetings is to provide an orientation to new members and plan future activities of the committee. The committee will also have a briefing on racial profiling.

Members of the public are entitled to submit written comments; the comments must be received in the regional office by July 12, 2008. The address is Eastern Regional Office, 624 9th St., NW., Washington, DC 20425. Persons wishing to e-mail their comments, or who desire additional information should contact Alfreda Greene, Secretary, at 202–376–7533 or by e-mail to: *agreene@usccr.gov.*

Hearing-impaired persons who will attend the meetings and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meetings.

Records generated from these meetings may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *http://www.usccr.gov,* or to contact the Eastern Regional Office at the above e-mail or street address.

The meetings will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, May 21, 2008.

Christopher Byrnes,

Chief, Regional Programs Coordination Unit.

[FR Doc. E8–11783 Filed 5–23–08; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Housing Vacancy Survey (HVS).

OMB Control Number: 0607–0179.

Form Number(s): HVS–600, BC–1428RV, CPS–263(L).

Type of Request: Extension of a currently approved collection.

Burden Hours: 4,278.

Number of Respondents: 6,936.

Average Hours Per Response: 3 minutes.

Needs and Uses: The U.S. Census Bureau collects the HVS data for a sample of vacant housing units identified in the monthly Current Population Survey (CPS) sample and provides the only quarterly statistics on rental vacancy rates, and home ownership rates for the United States, the four census regions, inside vs. outside metropolitan areas (MSAs), the 50 States, the District of Columbia, and the 75 largest MSAs. Private and public sector organizations use these rates extensively to gauge and analyze the housing market. In addition, the rental vacancy rate is a component of the index of leading economic indicators published by the Department of Commerce.

Policy analysts, program managers, budget analysts, and Congressional staff use data obtained from the remaining questions that do not deal specifically with the vacancy rate to advise the executive and legislative branches of government with respect to number and characteristics of units available for occupancy and the suitability of housing initiatives. Public and private sector organizations use these data for evaluating the housing market with regard to supply, cost, and affordability at various points in time.

The Census Bureau produces a press release, ''Census Bureau Reports on Residential Vacancies and Home Ownership,'' on a quarterly basis. In addition, it places the HVS data on the Internet for users to access. The Internet

address for the HVS data is *www.census.gov/hhes/www/housing/hvs/hvs.html.* Several other government agencies use these data on a continuing basis, for example, the Bureau of Economic Analysis uses the HVS data in calculating consumer expenditures for housing as a component of the gross domestic product; the Department of Housing and Urban Development relies on the HVS data to measure the adequacy of the supply of rental and homeowner units and works with the White House in measuring homeownership for minorities. The National Association of Home Builders, the National Association of Realtors, the Federal National Mortgage Association, the Federal Reserve Board, the Home Loan Mortgage Corporation, and the American Federation of Labor-Congress of Industrial Organizations (AFL–CIO) are among the many users in the private sector who routinely use the HVS data in making policy decisions relating to the housing market. In addition, investment firms use the HVS data to analyze market trends and for economic forecasting.

Affected Public: Individuals or households.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202) 395–7245 or e-mail (*bharrisk@omb.eop.gov*).

Dated: May 20, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8–11599 Filed 5–23–08; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Ave., NW., Room 2104, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Room 2104, U.S. Department of Commerce.

Docket Number: 08–016. *Applicant:* University of Colorado, 572 UCB, Boulder, CO 80309–0572. *Instrument:* Three-Channel Digital Radio Vector Field Sensor (RVFS). *Manufacturer:* Swedish Institute of Space Physics, Sweden. *Intended Use:* The instrument is intended to be used in a scientific project on the verification of the theory of multiple scattering of HF signals in the ionosphere with small-scale irregularities. The RVFS must have a capability to work with dipole antennas of two different lengths (1 m and 3 m) and a capability to oversample the output l&Q data. These specifications enable the instrument to operate in both mobile-mount and stationary conditions. Application accepted by *Commissioner of Customs:* April 30, 2008.

Docket Number: 08–017. *Applicant:* City College of the City University of New York, 160 Convent Ave., New York, NY 10031. *Instrument:* Ultrabroadband. *Ti:* Sapphire Laser Model Rainbow-DFG. *Manufacturer:* Femtolasers, Inc., Austria. *Intended Use:* The instrument will be used to develop experimental tools necessary to characterize ultrafast phenomena. A unique characteristic of this instrument is that it must generate optical pulses of less than 7 femtoseconds.

The amplifier system will be coupled with a 6 femtosecond laser and streak camera system to provide high spatial, high temporal and high spectral resolution for characterization, tunneling and carrier/phonon dynamics studies for nanoscale semiconductor quantum structures and devises. *Application accepted by Commissioner of Customs:* April 24, 2008.

Docket Number: 08–018. *Applicant:* Washington University, One Brookings Drive, St. Louis, MO 63130. *Instrument:* Modular Hot Cell—COMECER Model MIP1–1P–1350. *Manufacturer:* COMECER, Italy. *Intended Use:* The instrument will be used to evaluate the kinetics, biodistribution stability, dosimetry and safety of PET radiopharmaceuticals *i.e.*, [18F]FHBG. The hot cell MIP1350 will house an automated chemistry module used to synthesize [18F]FHBG. Unique features of this instrument include a sealed enclosure independent of the door as well as stainless steel enclosures. *Application accepted by Commissioner of Customs:* April 29, 2008.

Dated: May 16, 2008.

Faye Robinson,

Director, Statutory Import Programs Staff, Import Administration.

[FR Doc. E8–11561 Filed 5–23–08; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before June 16, 2008. Address written comments to Statutory Import Programs Staff, Room 2104, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. at the U.S. Department of Commerce in Room 2104.

Docket Number: 08–014. *Applicant:* Ohio State University, Materials Science and Engineering, 2041 College Rd., Columbus, OH 43210. *Instrument:* Transmission Electron Microscope. Manufacturer: FEI Company/Philips Electron Optics, the Netherlands. *Intended Use:* The instrument is intended to be used to study different types of solid state materials. It will be used for general morphological and structural studies of ceramics, metals,

including high-temperature superconductors, high-temperature metal alloys, evaporated metal films, silicon-germanium quantum dots, soils and geological materials and polymers. The transmission electron microscope will be used to measure the morphology and orientation of grains and particles, as well as the structure, long and short range ordering, number and type of defects and the elemental composition of various phases in the materials. *Application accepted by Commissioner of Customs:* April 28, 2008.

Docket Number: 08–015. *Applicant:* Texas Children's Hospital, 6621 Fannin St., Houston, TX 77030. *Instrument:* Transmission Electron Microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* The instrument is intended to be used to analyze the ultrastructural features and characteristics of biomedical and transgenic research samples. The instrument will be used for tumor classification or evaluation of research protocols for various cancer therapies. *Application accepted by Commissioner of Customs:* April 24, 2008.

Docket Number: 08–020. *Applicant:* Bergen County Technical Schools/ Bergen County Academies, 200 Hackensack Ave., Hackensack, NJ 07601. *Instrument:* Scanning Electron Microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* The instrument is intended to be used to explore nanoscale materials and phenomena, to characterize material composition, orientation and interactions in 2 and 3 dimensions, and, in conjunction with lithography, to create material structures unachievable through other means. *Application accepted by Commissioner of Customs:* May 2, 2008.

Dated: May 16, 2008.

Faye Robinson,

Director, Statutory Import Programs Staff.

[FR Doc. E8–11563 Filed 5–23–08; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before June 16, 2008. Address written comments to Statutory Import Programs Staff, Room 2104, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. at the U.S. Department of Commerce in Room 2104.

Docket Number: 08–019. Applicant: Texas Christian University, 2800 South University Drive, Fort Worth, Texas 76129. Instrument: Electron Microscope, Model JEM–2100. Manufacturer: JEOL, Inc., Japan. Intended Use: The instrument is intended to be used to study inorganic solid nanostructures and biological materials, in particular their structure and composition. These materials will be structurally characterized using the electron microscope and, depending on their composition, may undergo subsequent analysis for their optical, electrical, or biological activity. Application accepted by Commissioner of Customs: May 5, 2008.

Docket Number: 08–023. Applicant: Washington University in St. Louis, 1 Brookings Drive, University City, MO 63130. Instrument: Electron Microscope, Model Tecnai G2 Spirit Twin. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument is intended to be used to analyze the surface morphology, shape, size, size–distribution, uniformity and chemical composition of various materials, including nanostructured metals, metal–oxides, semiconductors, polymers, polymer fibers and biological materials. Application accepted by Commissioner of Customs: May 14, 2008.

Docket Number: 08–024. Applicant: Washington University in St. Louis, 1 Brookings Drive, University City, MO 63130. Instrument: Electron Microscope, Model Nova NanoSEM 230 . Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument is intended to be used to analyze the surface morphology, shape, size, size–distribution, uniformity and chemical composition of various materials, including nanostructured metals, metal–oxides, semiconductors, polymers, polymer fibers and biological materials. Application accepted by Commissioner of Customs: May 14, 2008.

Dated: May 21, 2008.

Faye Robinson,

Director, Statutory Import Programs Staff.

[FR Doc. E8–11761 Filed 5–23–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–412–801)

Ball Bearings and Parts Thereof from the United Kingdom: Preliminary Results of Changed-Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is conducting a changed–circumstances review of the antidumping duty order on ball bearings and parts thereof from the United Kingdom pursuant to section 751(b) of the Tariff Act of 1930, as amended. We preliminarily determine that SKF (UK) Ltd. is the successor–in-interest to SNFA Bearings Ltd. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 27, 2008.

FOR FURTHER INFORMATION CONTACT: Kristin Case at (202) 482–3174 or Richard Rimlinger at (202) 482–4477, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published an antidumping duty order on ball bearings and parts thereof from the United Kingdom on May 15, 1989. See *Antidumping Duty Orders and Amendments to the Final Determinations of Sales at Less Than Fair Value: Ball Bearings and Cylindrical Roller Bearings and Parts Thereof From the United Kingdom*, 54 FR 20910 (May 15, 1989). On July 12, 2001, the Department revoked the antidumping duty order on ball bearings and parts thereof from the United Kingdom with respect to SNFA Bearings Ltd. (SNFA UK). See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Sweden, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Revocation of Orders in Part*, 66 FR 36551 (July 12, 2001).

On January 26, 2007, SNFA UK, a subsidiary of SNFA S.A.S.U. (SNFA), and SKF UK Ltd. (SKF UK) notified the Department of a change in ownership of SNFA. Specifically, SNFA UK and SKF UK notified the Department that, on July 4, 2006, through its subsidiary SKF Holding France S.A., AB SKF purchased all outstanding shares of SNFA. On

March 9, 2007, we self–initiated a changed–circumstances review of the antidumping duty order on ball bearings and parts thereof from the United Kingdom. See *Ball Bearings and Parts Thereof from Italy and the United Kingdom: Initiation of Antidumping Duty Changed–Circumstances Reviews*, 72 FR 10643 (March 9, 2007).[1] On January 30, 2008, SKF UK and SNFA UK notified the Department that the companies had moved SNFA UK's production facilities to the grounds of SKF UK's Stonehouse operations (Stonehouse)[2] and that SNFA UK's assets had been legally transferred to SKF UK. SKF UK and SNFA UK also explained that, with the asset transfer, SNFA UK began operating as a part of SKF UK (referred hereinafter as SKF UK's SNFA operations). SKF UK and SNFA UK asserted that, unless the Department determines that an operational merger has occurred between SKF UK's Stonehouse and SNFA operations, the Department should determine that SKF UK and SKF UK's SNFA operations are entitled to separate treatment under the antidumping law.

Scope of the Order

The products covered by the order are ball bearings and parts thereof. These products include all bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following *Harmonized Tariff Schedules of the United States* (HTSUS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.2580, 8482.99.35, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

As a result of recent changes to the Harmonized Tariff Schedule, effective February 2, 2007, the subject merchandise is also classifiable under the following additional HTS item numbers: 8708.30.5090, 8708.40.7500, 8708.50.7900, 8708.50.8900, 8708.50.9150, 8708.50.9900, 8708.80.6590, 8708.94.75, 8708.95.2000, 8708.99.5500, 8708.99.68, and 8708.99.8180.

Although the HTSUS item numbers above are provided for convenience and customs purposes, the written description of the scope of the order remains dispositive.

Preliminary Results

In conducting this changed–circumstances review pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), the Department has conducted a successor–in-interest analysis. In making a successor–in-interest determination, the Department examines several factors including, but not limited to, changes in the following: (1) management; (2) production facilities; (3) supplier relationships; (4) customer base. See *Brake Rotors From the People's Republic of China: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 69941 (November 18, 2005) and *Notice of Final Results of Changed–Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber from Japan*, 67 FR 58 (January 2, 2002). While no single factor or combination of factors will necessarily provide a dispositive indication of a successor–in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor. See *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979 (March 1, 1999), and *Industrial Phosphoric Acid from Israel: Final Results of Antidumping Duty Changed Circumstances Review*, 59 FR 6944 (February 4, 1994). Thus, if the evidence demonstrates that, with respect to the production and sale of subject merchandise, the new company operates as the same business entity as the former company, the Department will accord the new company the same antidumping treatment as its predecessor.

We preliminarily find that the asset transfer, relocation of SNFA UK's production facilities, and degree of management integration demonstrate that SKF UK is the successor–in-interest to pre–acquisition SNFA UK. Due to the business–proprietary nature of this decision, details are provided in Memorandum to Laurie Parkhill, entitled ''Preliminary Results of Changed–Circumstances Review of the Antidumping Duty Order on Ball Bearings and Parts Thereof from the United Kingdom,'' dated May 19, 2008. As a result of our analysis, we also preliminarily determine that SKF UK and SNFA UK are no longer entitled to separate treatment under the antidumping law.

Public Comment

Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice of preliminary results of changed–circumstances review. Rebuttal briefs from interested parties, limited to the issues raised in the case briefs, may be submitted not later than five days after the time limit for filing the case briefs or comments. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the arguments not exceeding five pages, and a table of statutes, regulations, and cases cited.

Interested parties who wish to request a hearing or to participate in a hearing if a hearing is requested must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. In accordance with 19 CFR 351.310(c), requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. If requested, any hearing will be held two days after the scheduled date for submission of rebuttal briefs.

The Department will publish in the **Federal Register** a notice of the final results of this changed–circumstances review, including the results of its analysis of issues raised in any written briefs or at the hearing.

During the course of this changed–circumstances review, we will not change any cash-deposit instructions on the merchandise subject to this changed–circumstances review unless a change is determined to be warranted pursuant to the final results of this review.

We are issuing and publishing these preliminary results and notice in accordance with sections 751(b) and 777(i)(1) of the Act and 19 CFR 351.216.

[1] On October 26, 2007, we rescinded the changed-circumstances review of the antidumping duty order on ball bearings and parts thereof from Italy. See Ball Bearings and Parts Thereof from France and Italy: Rescission of Antidumping Duty Changed-Circumstances Reviews, 72 FR 60798 (October 26, 2007).

[2] SKF UK produces ball bearings only at its Stonehouse operations.

Dated: May 19, 2008.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–11744 Filed 5–23–08; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No: 080411556–8593–01]

Construction Grant Program Notice of Availability of Funds

AGENCY: National Institute of Standards and Technology (NIST), United States Department of Commerce.

ACTION: Notice of Availability of Funds; Request for Proposals.

SUMMARY: The National Institute of Standards and Technology (NIST), United States Department of Commerce (DoC), is soliciting grant proposals for construction of research science buildings. Grant funding is available to institutions of higher education and non-profit organizations on a competitive basis.

DATES: Proposals must be received no later than 3 p.m. Eastern Time, Monday, July 21, 2008. Review, selection, and grant award processing is expected to be completed by the end of September 2008.

ADDRESSES: Proposals must be submitted to NIST as follows:

Paper submission: Send to National Institute of Standards and Technology, 100 Bureau Drive, Stop 4701, Gaithersburg, MD 20899–4701.

Electronic submission: http://www.grants.gov.

FOR FURTHER INFORMATION CONTACT: Barbara Lambis via e-mail at *barbara.lambis@nist.gov* or telephone (301) 975–4447.

SUPPLEMENTARY INFORMATION: *Additional Information.* The Consolidated Appropriations Act, 2008 (Pub. L. 110–161) (the ''Act'') appropriated ''$30,080,000 * * * for a competitive construction grant program for research buildings'' to NIST. Additional information on the program was provided in an explanatory statement that under Section 4 of the Act has the same effect as a Conference Report: ''The research buildings should span all the applicable sciences, as they relate to the Department of Commerce. These grants shall be awarded to colleges, universities, and other non-profit science research organizations on a competitive basis.'' 153 Congressional Record H15790 (Dec. 17, 2007). The Federal Funding Opportunity (FFO) announcement for this request for proposals is available at *http://www.grants.gov.*

Statutory Authority. Consolidated Appropriations Act, 2008 (Pub. L. 110–161).

CFDA. 11.615 Construction Grant Program.

Program Description. The goals and objectives of the program are to provide competitively awarded grant funds for research science buildings through the construction of new buildings or expansion of existing buildings. For purposes of this program, ''research science building'' means a building or facility whose purpose is to conduct scientific research, including laboratories, test facilities, measurement facilities, and/or observatories.

Funding Availability. Approximately $29 million is available for construction of research science buildings. We expect to issue awards with Federal shares in the $10 million–$15 million range.

Eligibility Criteria: Institutions of higher education and non-profit organizations are eligible to apply for awards under this Program.

Evaluation Criteria. The evaluation criteria that will be used in evaluating proposals are as follows:

1. Scientific and technical merit of the proposed use and need for Federal funding (50 percent).

(Addresses the science and technology activities the building/facility will support and why the research infrastructure is needed to meet those science and technology activities; the building's/facility's targeted impact on the science and technology knowledge and infrastructure base; and the need for Federal funding, due to a lack of alternative funding sources.)

2. The quality of the design of the research science building (25 percent).

(Addresses the quality of design information for the building/facility to establish that the design of the building/facility has the ability to meet the safety, physical, environmental and experimental/operational requirements of the science and technology activities the building/facility is expected to support.);

3. Adequacy of the detailed Project Execution Plan (PEP) for construction of the research science building (25 percent). The PEP must address:

a. Project Scope and Requirements

(Addresses the type of Work/task Breakdown Structure (WBS) approach and the work/task elements used to organize and define the total scope of the project by tasks; the descriptions of each work/task breakdown element; the organization and documentation of the task components in a way that aggregates the subtasks into unified task descriptions; and enables their use throughout project management life-cycle to identify and monitor project progress, as well as link tasks to budget and schedule plans.);

b. Adequacy of the Proposed Project Schedule and Budget (Although cost sharing is not required it is encouraged for a proposal to be competitive and will be considered as a selection factor.)

(Addresses the task schedule and budget descriptions associated with the Work/task Breakdown Structure being utilized. Addresses the sources and levels of cost sharing if proposed.);

c. Capability to Manage the Project; and

(Addresses the approach for project management tracking and control, from kick-off through close-out, which may consist of: tools and techniques (manual and automated systems) used to gather, integrate and disseminate the outputs of project management processes during the life of the award; an analysis of risks and how they may be mitigated; and cost control mechanisms. Addresses the management plan for direction and implementation of the project, including capability descriptions of the performing organizations and associated key personnel.); and

d. Financial Commitments to Implement the PEP.

(Addresses the current and any pending commitments required for the building/facility to be established and become fully operational, by the organizational name/contact that has the fiduciary authority over the funds).

Selection Factors. The Selecting Official shall recommend proposals for award based upon the Evaluation Board's rank order of the proposals and the following selecting factors:

1. Degree to which project complements DoC science and technology program priorities (see Program Priorities below), including the amount and quality of experience that the institution that will use the facility has had with novel research.

2. Experience promoting national impacts through research outcomes, training, cooperation with Federal programs, opportunities for visiting researchers.

3. Assuring a balance/distribution among the program priorities (see Program Priorities below).

4. Availability of funds.

5. Credibility of plans to transition to operational status (i.e., staffing and equipping the building, and operational readiness).

6. Whether this project duplicates other projects funded by DoC or other Federal agencies.

7. Degree to which the applicant is proposing cost share. (A minimum of 25% would be viewed favorably; 50% even more favorably.)

8. Adequacy of information needed to assess compliance with and to make a determination under the National Environmental Policy Act of 1969, as amended.

9. Applicant's prior Federal award performance.

Program Priorities: All applicable fields of science that relate directly to the programs of DoC's three science organizations: NIST, the National Oceanic and Atmospheric Administration (NOAA), and the National Telecommunications and Information Administration (NTIA). Specifically, these include science related to measurements, oceans or atmosphere, or telecommunications. More information about those programs can be found on the agencies' Web sites (*http://www.nist.gov*, *http://www.noaa.gov*, and *http://www.ntia.doc.gov*).

Selection Process. An initial administrative review will be conducted to determine compliance with requirements and completeness of the proposal. Responsive and complete proposals will be considered further. Proposals that are nonresponsive and/or incomplete will be eliminated. Each of the remaining proposals will receive three independent reviews, which will include three written evaluations and scores, based on the evaluation criteria. No consensus advice will be given. The individual proposal evaluations and scores will be considered by an Evaluation Board (a committee made up of four Federal employees), and this Board will present ranking and funding recommendations based on the evaluation criteria to a Selecting Official for further consideration. In making final selections, the Selecting Official (Chief Facilities Management Officer, NIST) will select funding recipients based upon the Evaluation Board's rank order of the proposals and the selection factors. The selection of proposals by the Selecting Official is final. NIST reserves the right to negotiate the cost and scope of the proposed work with the applicants that have been selected to receive awards. This may include requesting that the applicant delete from the scope of work a particular task that is deemed by NIST to be inappropriate for support against the evaluation criteria or selection factors. NIST also reserves the right to reject a proposal where information is uncovered that raises a reasonable doubt as to the responsibility of the applicant. The final approval of selected proposals and award of grants will be made by the NIST Grants Officer. The award decision of the NIST Grants Officer is final.

Executive Order 12372 (Intergovernmental Review of Federal Programs). Proposals under this program are not subject to Executive Order 12372.

Administrative Procedure Act and Regulatory Flexibility Act. Prior notice and comment are not required under 5 U.S.C. 553, or any other law, for rules relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)). Because prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

E.O. 13132 (Federalism). This notice does not contain policies with Federalism implications as defined in Executive Order 13132.

E.O. 12866 (Regulatory Planning and Review). This notice is not a significant regulatory action under Sections 3(f)(3) and 3(f)(4) of Executive Order 12866, as it does not materially alter the budgetary impact of a grant program and does not raise novel policy issues. This notice is not an ''economically significant'' regulatory action under Section 3(f)(1) of the Executive Order, as it does not have an effect on the economy of $100 million or more in any one year, and it does not have a material adverse effect on the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Paperwork Reduction Act. Notwithstanding any other provision of the law, no person is required to, nor shall any person be subject to penalty for failure to, comply with a collection of information, subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This document contains collection-of-information requirements subject to the PRA. The use of Standard Forms 424, 424C, 424D, and LLL; and CD–346 have been approved by OMB under the respective control numbers 4040–0004, 4040–0008, 4040–0009, 0348–0046, and 0605–0001.

Administrative and National Policy Requirements. Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements, which are contained in the **Federal Register** Notice of February 11, 2008 (73 FR 7696–01), are applicable to this solicitation.

Dated: May 20, 2008.

Richard F. Kayser,

Chief Scientist.

[FR Doc. E8–11719 Filed 5–23–08; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–AW83

Atlantic Highly Migratory Species; Environmental Impact Statement for Amendment 4 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan

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

ACTION: Notice of intent; request for comments.

SUMMARY: NMFS announces its intent to prepare an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) to assess the potential effects on the human environment of proposed alternatives and actions under Amendment 4 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP). The EIS is intended to address issues regarding authorized fishing gear and fishing vessel and dealer permitting in Puerto Rico and the U.S. Virgin Islands (USVI), as well as examine management alternatives to improve vessel and dealer reporting and data collection in Puerto Rico and the USVI consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Atlantic Tunas Convention Act (ATCA), and other relevant Federal laws. NMFS is requesting comments on the above measures including, but not limited to, permitting, revisions to the limited access permit (LAP) program, and reporting.

DATES: Comments on this action must be received by October 31, 2008.

ADDRESSES: Comments can be submitted to Russell Dunn, HMS Management Division, National Marine Fisheries Service, 263 13th Avenue South, Saint Petersburg, FL 33701. Please mark the outside of the envelope ''Scoping

Comments on Amendment 4 to the Consolidated HMS FMP.'' Comments can also be submitted via email at *noi.hms.caribbean@noaa.gov*, or via fax at (727) 824–5398. Include in the subject line of the email or fax comment the following document identifier: NOI HMS Caribbean.

FOR FURTHER INFORMATION CONTACT: Russell Dunn or Greg Fairclough by phone:(727) 824–5399, or by fax: (727) 824–5398.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Act, and the Atlantic tuna, swordfish, and billfish fisheries are managed under the Magnuson-Stevens Act and ATCA. The Consolidated HMS FMP is implemented by regulations at 50 CFR part 635. Copies of the Consolidated HMS FMP are available from NMFS on request.

Background

The 1999 Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP) established a LAP program for the commercial Atlantic swordfish and shark fisheries to begin to rationalize harvesting capacity with the available quota and reduce latent effort while preventing further overcapitalization. To assist with enforcement and management of the program, permit restrictions were also placed on vessels fishing for bigeye, albacore, yellowfin, and skipjack (BAYS) tunas. Implementation of the HMS LAP program has been ongoing since the implementation of the 1999 FMP and is executed via issuance of permits to eligible recipients in the commercial shark, swordfish, and BAYS fisheries. Currently many eligible vessels may be required to obtain up to three separate LAPs to fish for, or retain, HMS. Since implementation, HMS LAPs have continued to increase in value. Limited availability and high LAP costs may present a significant barrier to entry into some segments of the HMS fisheries.

There are substantial differences between some segments of the U.S. Caribbean HMS fisheries and the HMS fisheries that occur off of the mainland United States including, but not limited to: limited fishing and dealer permit possession; smaller vessels; shorter trips; limited profit margins; and high local consumption of catches. These differences can create an awkward fit between the current regulations and the operational realities of Caribbean fisheries. NMFS has benefitted from receiving various recommendations to improve management of the HMS permitting program and U.S. Caribbean HMS fisheries from the Caribbean Fishery Management Council, territorial governments, and local fishermen. Some suggestions on U.S. Caribbean HMS fisheries received to date include, but are not limited to: creating a commercial Caribbean HMS permit (valid for sharks, tunas, and swordfish); combining Caribbean vessel and dealer permits (allowing vessels to sell catch); and modifying authorized gears (authorizing buoy gear in the Caribbean BAYS tuna fishery and allowing the possession of reef fish traps).

Based on discussions with the Caribbean Fishery Management Council and the territorial governments, NMFS believes that the depletion of continental shelf fishery resources may be increasing local interest in HMS resources. As local fishermen become more dependent on offshore fishery resources and increase fishing effort on HMS, there is an increased need for NMFS to modify the current HMS permitting and reporting regime to include small commercial Caribbean vessels and better collect catch and effort data.

Management Options

NMFS requests comments on management options for this action. Specifically, NMFS requests comments on the following issues and possible options: creating a small commercial vessel Caribbean HMS permit (valid for sharks, tunas, and swordfish); combining commercial Caribbean vessel and dealer permits (allowing vessels to sell/retail catch); modifying authorized gears (authorizing buoy gear in the Caribbean BAYS tuna fishery and allowing the possession of reef fish traps); and developing methods to improve reporting and data collection. NMFS also requests comment on any other fishery management issue pertaining to Caribbean HMS fisheries which the public believes should be further examined by NMFS.

NMFS intends to publish an issues and options document summarizing the different options under consideration and will announce the availability of this document at a later date. NMFS will hold at least one scoping meeting to gather public comment on the issues and options described here and in the forthcoming issues and options document (time and location details of which will be announced in a subsequent **Federal Register** notification).

After scoping has been completed and public comment gathered and analyzed, NMFS will proceed with preparation of a draft EIS and proposed rule, which will include additional opportunities for public comment. Until the EIS and associated documents are finalized or until other regulations are put into place, the current regulations remain in effect.

Dated: May 19, 2008.

Emily H. Menashes,

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

[FR Doc. E8–11779 Filed 5–23–08; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 1 p.m., Thursday, June 5, 2008.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 08–1289 Filed 5–22–08; 11:35 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Wednesday, June 11, 2008.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Risk Surveillance.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 08–1291 Filed 5–22–08; 11:35 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11 a.m., Friday, June 27, 2008.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 08–1294 Filed 5–22–08; 11:35 am]

BILLING CODE 6351–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 28, 2008.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology?

Dated: May 20, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Migrant Student Information Exchange User Application Form.

Frequency: On occasion.

Affected Public: Individuals or Households; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 9,800. *Burden Hours:* 4,900.

Abstract: The collection is the user application form that is completed by State migrant education program staff who need to obtain access to the Migrant Student Information Exchange (MSIX) system. MSIX user Administrators in the States will gather and verify information on applicants who will use MSIX. The application form specifies the MSIX user's identity, title/position, work address, work telephone, business e-mail address, and role. These applicants would typically be school counselors, registrars, and Migrant Education Program (MEP) specialists. The MSIX is authorized under Section 1308(b)(1) and (2) of Part C of Title l of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001. A System of Records Notice (SORN) for the Privacy Act System associated with this information collection is underway. Privacy Data will not be retrieved until an approved SORN has been published in the **Federal Register** for 30 days, or is approved by OMB.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3650. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E8–11717 Filed 5–23–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity (NACIQI): Notice of Meeting Changes

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education.

SUMMARY: This notice advises interested parties of changes concerning the June 9–10, 2008 meeting of the National Advisory Committee on Institutional Quality and Integrity (NACIQI) and amends information provided in the original meeting notice published in the March 3, 2008 **Federal Register** (73 FR 11404).

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Lewis, the Executive Director of the National Advisory Committee on Institutional Quality and Integrity, U.S. Department of Education, Room 7127, MS 7592, 1990 K St., NW., Washington, DC 20006, telephone: (202) 219–7009; fax: (202) 219–7008, e-mail: *Melissa.Lewis@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The changes to the agenda for the June 2008 meeting of the NACIQI, to be held at The Liaison Capitol Hill, 415 New Jersey Avenue, NW., Washington, DC 20001:

(1) The NACIQI is now scheduled to meet on Monday, June 9, 2008, from 9:15 a.m. to approximately 6 p.m. The NACIQI will not meet on Tuesday, June 10, 2008.

(2) The agency listed below, which was originally scheduled for review during the NACIQI's June 2008 meeting, will be postponed for review until a future meeting.

1. American Bar Association, Council of the Section of Legal Education and Admissions to the Bar (Current and

requested scope of recognition: The accreditation throughout the United States of programs in legal education that lead to the first professional degree in law, as well as freestanding law schools offering such programs. This recognition also extends to the Accreditation Committee of the Section of Legal Education (Accreditation Committee) for decisions involving continued accreditation (referred to by the agency as ''approval'') of law schools.)

Any third-party written comments regarding this agency that were received by April 2, 2008, in accordance with the **Federal Register** notice published on March 3, 2008, will become part of the official record, and those comments will be considered by the NACIQI when it reviews the agency's petition for continued recognition at a future meeting. In addition, prior to the meeting, another opportunity to provide written comments on the agency will be announced in a **Federal Register** notice.

How May I Obtain Electronic Access to This Document?

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: *http://www.ed.gov/legislation/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*.

Authority: 5 U.S.C. Appendix 2.

Dated: May 19, 2008.

Diane Auer Jones,

Assistant Secretary for Postsecondary Education.

[FR Doc. E8–11778 Filed 5–23–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

May 15, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER99–2156–013; ER96–719–019; ER97–2801–020.

Applicants: Cordova Energy Company LLC; MidAmerican Energy Company; PacifiCorp.

Description: Cordova Energy Co, LLC *et al.* submits a revised table of assets to its 3/31/08 filing.

Filed Date: 05/09/2008.

Accession Number: 20080514–0160.

Comment Date: 5 p.m. Eastern Time on Friday, May 30, 2008.

Docket Numbers: ER01–1071–011; ER06–9–006; ER05–1281–006; ER03–34–010; ER06–1261–005; ER03–1104–007; ER03–1105–007; ER08–197–004; ER07–904–002; ER98–2076–014; ER98–4222–012; ER07–1157–003; ER01–174–003; ER07–875–002.

Applicants: Badger Windpower, LLC; FPL Energy Burleigh County Wind, LLC; FPL Energy Duane Arnold, LLC; FPL Energy Hancock County Wind, LLC; FPL Energy Mower County, LLC; FPL Energy North Dakota Wind, LLC; FPL Energy North Dakota Wind II, LLC; FPL Energy Oliver Wind II, LLC; FPL Energy Point Beach, LLC; Hawkeye Power Partners, LLC; Lake Benton Power Partners II, LLC; Logan Wind Energy LLC; Osceola Windpower, LLC; Peetz Table Wind Energy, LLC.

Description: FPL Energy Affiliates submits revised market-based rate tariffs—First Revised Sheet 1 to FERC Electric Tariff, Original Volume 11 *et al.*

Filed Date: 05/12/2008.

Accession Number: 20080514–0264.

Comment Date: 5 p.m. Eastern Time on Monday, June 02, 2008.

Docket Numbers: ER02–506–010; ER98–2783–013; ER99–3822–013; ER07–841–003; ER01–140–009; ER07–842–003; ER00–1895–011; ER07–843–003; ER07–844–003; ER07–845–003; ER07–846–000; ER99–4160–014; ER01–141–009; ER07–847–003; ER00–3696–010; ER01–943–009; ER05–1266–007; ER08–451–002; ER01–3109–011; ER01–1044–010; ER99–2157–010; ER02–553–009; ER03–42–014.

Applicants: Bluegrass Generation Company, L.L.C.; Bridgeport Energy, LLC; Casco Bay Energy Company, LLC; Dynegy Arlington Valley, LLC; Dynegy Danskammer, L.L.C.; Dynegy Kendall Energy, LLC; Dynegy Midwest Generation, Inc.; Dynegy Mohave, LLC; Dynegy Morro Bay, LLC; Dynegy Moss Landing, LLC; Dynegy Oakland, LLC; Dynegy Power Marketing, Inc.; Dynegy Roseton, L.L.C.; Dynegy South Bay, LLC; Griffith Energy LLC; Heard County Power, L.L.C.; Ontelaunee Power Operating Company, LLC; Plum Point Energy Associates, LLC; Renaissance Power, L.L.C.; Riverside Generating Company, L.L.C.; Rocky Road Power, LLC; Rolling Hills Generating, L.L.C.; Sithe/Independence Power Partners, L.P.

Description: Bluegrass Generation Company, LLC *et al.* submits Original Sheet 1 *et al.* to FERC Electric Tariff, First Revised Volume 1, in compliance with FERC's directives in Orders 697 & 697–A.

Filed Date: 05/02/2008.

Accession Number: 20080508–0195.

Comment Date: 5 p.m. Eastern Time on Friday, May 23, 2008.

Docket Numbers: ER05–665–004.

Applicants: Barrick Goldstrike Mines Inc.

Description: Withdrawal of Triennial update and application for finding as a Category 1 Seller of Barrick Goldstrike Mines Inc.

Filed Date: 05/14/2008.

Accession Number: 20080514–5071.

Comment Date: 5 p.m. Eastern Time on Wednesday, June 04, 2008.

Docket Numbers: ER06–738–011; ER06–739–011.

Applicants: Cogen Technologies Linden Venture, L.P.

Description: Cogen Technologies Linden Venture, LP submits Substitute First Revised Sheet 1 & Substitute First Revised Sheet 2, showing changes to the revised tariff sheets submitted on 12/14/07.

Filed Date: 05/13/2008.

Accession Number: 20080514–0190.

Comment Date: 5 p.m. Eastern Time on Tuesday, June 03, 2008.

Docket Numbers: ER08–656–001.

Applicants: Shell Energy North America (U.S.), L.P.

Description: Shell Energy North America (U.S.), L.P. submits Original Sheet 1 *et al.* to First Revised Rate Schedule 1.

Filed Date: 05/12/2008.

Accession Number: 20080514–0262.

Comment Date: 5 p.m. Eastern Time on Monday, June 02, 2008.

Docket Numbers: ER08–851–001.

Applicants: Valencia Power, LLC.

Description: Valencia Power, LLC submits revised pages of their proposed FERC Electric Tariff, Original Volume 1 in compliance with the requirements of FERC's Order 697.

Filed Date: 05/12/2008.

Accession Number: 20080514–0261.

Comment Date: 5 p.m. Eastern Time on Monday, June 02, 2008.

Docket Numbers: ER08–943–000.
Applicants: PJM Interconnection L.L.C.
Description: PJM Interconnection, L.L.C. submits the Market Monitoring Services Agreement, PJM Interconnection, L.L.C. Rate Schedule FERC 46.
Filed Date: 05/12/2008.
Accession Number: 20080514–0266.
Comment Date: 5 p.m. Eastern Time on Monday, June 02, 2008.

Docket Numbers: ER08–944–000.
Applicants: Xcel Energy Services, Inc.
Description: Xcel Energy Services, Inc submits the Notice of Cancellation of the Transmission Capacity and Planning Agreement dated 8/15/88 between Northern States Power Company, a Minnesota corporation and City of Springfield etc.
Filed Date: 05/12/2008.
Accession Number: 20080514–0259.
Comment Date: 5 p.m. Eastern Time on Monday, June 02, 2008.

Docket Numbers: ER08–945–000.
Applicants: Westar Energy, Inc.
Description: Kansas Gas and Electric Company submits Fourth Revised Sheet 1 and Third Revised Sheet 3 of Rate Schedule FERC 152 a Wholesale Electric Service Agreement between KGE and the Missouri Public Service etc.
Filed Date: 05/12/2008.
Accession Number: 20080514–0258.
Comment Date: 5 p.m. Eastern Time on Monday, June 02, 2008.

Docket Numbers: ER08–946–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corporation submits notice regarding the revised transmission Access Charges effective 2/20/08.
Filed Date: 05/12/2008.
Accession Number: 20080514–0257.
Comment Date: 5 p.m. Eastern Time on Monday, June 02, 2008.

Docket Numbers: ER08–947–000.
Applicants: Goodman, James A.
Description: Tiverton Power Inc *et al.* submits a notice of cancellation of the Market-Based Rate Tariff of James Goodman, Receiver.
Filed Date: 05/13/2008.
Accession Number: 20080514–0256.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 03, 2008.

Docket Numbers: ER08–948–000.
Applicants: San Diego Gas & Electric Company.
Description: San Diego Gas & Electric Company submits changes in its transmission revenue requirement and rate revisions related to changes to Post-Employment Benefits Other Than Pensions expense levels.
Filed Date: 05/13/2008.
Accession Number: 20080514–0263.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 03, 2008.

Docket Numbers: ER08–949–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy Inc submits a Petition for Approval of Settlement Agreement.
Filed Date: 05/13/2008.
Accession Number: 20080514–0254.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 03, 2008.

Docket Numbers: ER08–950–000.
Applicants: ISO New England Inc.
Description: ISO New England, Inc & Northeast Utilities Service Company *et al.* submits an unexecuted conforming Standard Large Generator Interconnection Agreement with Russell Biomass, LLC under Rate Schedule 22.
Filed Date: 05/13/2008.
Accession Number: 20080514–0255.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 03, 2008.

Docket Numbers: ER08–951–000.
Applicants: PSEG Energy Resources & Trade LLC.
Description: PSEG Energy Resources & Trade, LLC submits Rate Schedule FERC 3.
Filed Date: 05/13/2008.
Accession Number: 20080514–0191.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 03, 2008.

Take notice that the Commission received the following open access transmission tariff filings:
Docket Numbers: OA07–52–003.
Applicants: Puget Sound Energy, Inc.
Description: Order No. 890 OATT Filing of Puget Sound Energy, Inc. (Corrected First Revised Sheet No. 184).
Filed Date: 05/14/2008.
Accession Number: 20080514–5100.
Comment Date: 5 p.m. Eastern Time on Wednesday, June 04, 2008.

Take notice that the Commission received the following public utility holding company filings:
Docket Numbers: PH08–24–000; PH08–25–000.
Applicants: Horizon Asset Management, Inc.
Description: Horizon Asset Management, Inc submits two modifications of exemption on Form 65A .
Filed Date: 05/07/2008.
Accession Number: 20080514–0272.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 28, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed 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. E8–11728 Filed 5–23–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

May 20, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP05–157–013.
Applicants: Saltville Gas Storage Company L.L.C.
Description: Saltville Gas Storage Company, LLC submits First Revised Sheet 21A *et al* to its FERC Gas Tariff, Original Volume 1, to become effective 6/15/08.
Filed Date: 05/15/2008.
Accession Number: 20080516–0147.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 27, 2008.

Docket Numbers: RP08–341–000.
Applicants: Canyon Creek Compression Company.
Description: Canyon Creek Compression Co submits a statement of Nature, Reasons and Basis *et al* in accordance with Section 37 of its tariff.
Filed Date: 04/30/2008.
Accession Number: 20080501–0036.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 27, 2008.

Docket Numbers: RP08–379–000.
Applicants: Alliance Pipeline L.P.
Description: Alliance Pipeline LP submits Fourth Revised Sheet 279 to FERC Gas Tariff, Original Volume 1, to become effective 6/1/08.
Filed Date: 05/15/2008.
Accession Number: 20080516–0148.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 27, 2008.

Docket Numbers: CP06–407–005.
Applicants: Missouri Interstate Gas LLC.
Descriptions: Missouri Interstate Gas LLC., submits First Revised Tariff Sheet No. 5 to FERC Gas Tariff, First Revised Volume No. 1.
Filed Date: May 12, 2008.
Accession Number: 200805–4014.
Comment Date: 5 p.m. Eastern Time Tuesday, June 3, 2008.

Docket Numbers: CP08–399–000.
Applicants: Columbia Gulf Transmission Company.
Descriptions: Columbia Gulf Transmission Company submits an abbreviated application for permission and approval to abandon natural gas service (Rate Schedule X67).
Filed Date: May 15, 2008.
Accession Number: 20080516–0149.
Comment Date: 5 p.m. Eastern Time Tuesday, June 3, 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.

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Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–11729 Filed 5–23–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF08–14–000]

Florida Gas Transmission Company, LLC; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Phase VIII Expansion Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings

May 19, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of Florida Gas Transmission Company, LLC's (FGT) proposed Phase VIII Expansion Project. The project involves the construction and operation of natural gas pipeline and compressor facilities in various counties in Alabama and Florida as discussed below.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the proposed project. Your input will help determine which issues need to be evaluated in the EIS. Please note that the scoping period will close on June 20, 2008.

This notice is being sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. State and local government representatives are asked to notify their constituents along this proposed project and encourage them to comment on their areas of concern.

Comments regarding this project may be submitted in written form or verbally. Further details on how to submit written or electronic comments are provided in the public participation section of this notice. In lieu of or in addition to sending written comments, we invite you to attend the public scoping meetings we have scheduled as follows:

Date	Location
Tuesday, June 3, 2008, 7 p.m. (EST).	Crestview Community Center, 1446 Commerce Drive, Crestview, Florida, 850–682–0647.
Wednesday, June 4, 2008, 7 p.m. (EST).	Catholic Church Parish Hall, 2750 S. Byron Butler Pkwy, Perry, Florida, 850–584–8853.

Date	Location
Tuesday, June 10, 2008, 7 p.m. (EST).	Residence Inn by Marriott, 2101 Northpointe Parkway, Lutz, Florida, 813–792–8400.
Thursday, June 12, 2008, 7 p.m. (EST).	Lake Placid Middle School (Auditorium), 201 Tangerine Avenue, Lake Placid, Florida, 863–699–5030.

The FERC will be the lead federal agency for the preparation of the EIS. The document will satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA). In addition, with this notice, we [1] are asking other federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EIS. These agencies may choose to participate once they have evaluated FGT's proposal relative to their responsibilities. Agencies that would like to request cooperating status should follow the instructions for filing comments described later in this notice. Consultations have been initiated with the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and other state and/or federal wildlife management and environmental agencies. Consultations with these and other agencies will continue throughout the project review and permitting period.

If you are a landowner receiving this notice, you may be contacted by an FGT representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the FERC, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need To Know?'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the FERC's proceedings.

Summary of the Proposed Project

FGT proposes to construct and operate an expansion of the existing FGT pipeline system that would increase FGT's certificated capacity by about one billion cubic feet per day of natural gas. The Phase VIII Expansion Project would consist of looping [2] portions of their existing pipelines; installing horsepower at new or existing compressor stations; acquiring an existing lateral; and constructing new laterals. The Phase VIII Expansion Project would consist of about 567.6 miles of pipeline with ancillary facilities, and an additional 207,900 horsepower of compression. Specifically, FGT seeks authority to construct and operate:

Eleven Pipeline Loop Segments

- Loop 1 would be about 25.5 miles of 42-inch-diameter pipeline located in Mobile County, Alabama (milepost [MP] 165.3 to Compressor Station [CS] 11).
- Loop 2 would be about 47.6 miles of 36-inch-diameter pipeline located in Baldwin and Escambia Counties, Alabama and Escambia and Santa Rosa Counties, Florida (MP 205.0 to MP 252.6).
- Loop 3 would be about 50.7 miles of 36-inch-diameter pipeline located in Santa Rosa, Okaloosa, and Walton Counties, Florida (CS 12 to MP 310.9). FGT would also remove a previously abandoned 24-inch-diameter pipeline from about MP 260.2 to MP 273.5.
- Loop 4 would be about 59 miles of 36-inch-diameter pipeline located in Washington, Bay, and Calhoun Counties, Florida (CS 13 to MP 383.5). FGT would also remove a previously abandoned 24-inch-diameter pipeline from about MP 327.6 to MP 340.2.
- Loop 5 would be about 66.8 miles of 36-inch-diameter pipeline located in Gadsden, Leon, and Jefferson Counties, Florida (CS 14 to MP 461.5).
- Loop 6 would be about 35.2 miles of 36-inch-diameter pipeline located in Taylor, Lafayette, and Suwannee Counties, Florida (CS 15 to MP 503.9).
- Loop 7 would be about 12.8 miles of 36-inch-diameter pipeline located in Suwannee and Gilchrist Counties, Florida (West Leg (WL) MP 0.0 to MP 12.8).
- Loop 8 would be about 46.1 miles of 36-inch-diameter pipeline located in Levy and Citrus Counties, Florida (WL MP 44.5 to CS 26).
- Loop 9 would be about 49.3 miles of 36-inch-diameter pipeline located in Hernando, Pasco, and Hillsborough Counties, Florida (WL MP 110.9 to CS 27).
- Loop 10 would be about 38.8 miles of 36-inch-diameter pipeline located in Hillsborough and Polk Counties, Florida (CS 27 to WL MP 199.0).
- Loop 11 (Turkey Point Lateral), would be about 6.7 miles of 24-inch-diameter pipeline located in Dade County, Florida (MP 11.3 to 18.0).

Three Greenfield Pipeline Segments

- The Suwannee Lateral would be about 22.0 miles of 20-inch-diameter pipeline including about 8 miles of pipeline loop located in Lafayette County, Florida and about 14 miles of greenfield route located in Madison and Suwannee Counties, Florida (MP 0.0 to 22.0).
- The Arcadia to Florida Power and Light (FPL) Martin Plant Lateral would be about 90.6 miles of 30-inch-diameter pipeline located in Desoto, Highlands, Okeechobee, and Martin Counties, Florida.
- The Manatee Lateral would be about 16.5 miles of 24-inch-diameter pipeline located in Manatee County, Florida.

One Pipeline Acquisition Segment

- FGT would acquire from FPL its Martin Plant to FGT Mainline 20-inch-diameter pipeline located in Martin County, Florida. This pipeline is about 23.1 miles in length. There would be no new construction or ground disturbing activities associated with the acquisition of this segment.

Eight Upgrades to Existing Compressor Stations

- Station 11 in Mobile County, Alabama, would have two new compressor units installed that would add 40,000 hp.
- Station 12 in Santa Rosa County, Florida, would have one new compressor unit installed that would add 20,500 hp.
- Station 13 in Washington County, Florida, would have one new compressor unit installed and two existing compressor units upgraded that would add 26,000 hp.
- Station 14 in Gadsden County, Florida, would have one new compressor unit installed that would add 24,800 hp.
- Station 15 in Washington County, Florida, would have one new compressor unit installed that would add 20,000 hp.
- Station 24 in Gilchrist County, Florida, would have one new compressor unit installed that would add 20,500 hp.
- Station 26 in Citrus County, Florida, would have one new compressor unit installed that would add 20,500 hp.

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Office of Energy Projects.

[2] A pipeline ''loop'' is a pipeline connected to another pipeline at each end, generally parallel to or located near each other, to provide additional capacity and reliability.

• Station 27 in Hillsborough County, Florida, would have one new compressor unit installed that would add 20,000 hp.

One New Compressor Station

• Station 29 would be located in Okeechobee County, Florida, and would have two compressor units for a total of 15,600 hp.

Three New Metering and Regulation (M&R) Stations

• One new M&R station (Progress Energy (PE) Suwannee M&R Station) would be located in Suwannee County, Florida, at the new PE Power Plant site.

• One new M&R station (FPL Manatee M&R Station) would be located in Manatee County, Florida, at the FPL Manatee Plant site.

• One new M&R station (FPL Martin M&R Station) would be located in Martin County, Florida at the FPL Martin Plant site.

FGT is requesting approval to begin construction of the proposed facilities in January of 2010. A general overview map of the major project facilities is provided in Appendix 1.[3]

Land Requirements for Construction

Construction of the project would require about 7,995 acres of land. For pipeline facilities, FGT would obtain a permanent right-of-way easement that would be typically 50 feet in width, about 3,320 acres. The remaining 4,675 acres of temporary workspace would be restored and allowed to revert to its former use. A majority of the pipeline route would parallel existing utility rights-of-way.

The temporary land requirements for construction of the proposed facilities would differ according to the type of terrain encountered and the corresponding construction methods that would be used, as described below.

FGT would utilize a typical 75-foot-wide construction right-of-way in upland areas to install the 20- and 24-inch-diameter pipelines, a 100-foot-wide construction right-of-way in upland areas to install the 30- and 36-inch-diameter looping and greenfield segments, and a 120-foot-wide construction right-of-way to install the upland 42-inch-diameter loop. Through unsaturated wetlands, FGT proposes to use a 75-foot-wide construction right-of-way to install the 20- through 36-inch-diameter pipelines and 100 feet for the proposed 42-inch-diameter loop.

Following construction of the proposed facilities, FGT would obtain a permanent right-of-way easement that would typically be 50 feet in width, centered over the new pipeline. This easement would overlap existing pipeline rights-of-way in most looping locations.

FGT may require temporary extra work spaces where obstacles prevent the normal placement of spoil and/or pipe sections immediately adjacent to the pipe ditch, additional volumes of spoil would be generated, and additional construction operations would be performed (e.g., road and railroad crossings, wetland and water body crossings, areas with steep side slopes, areas where topsoil segregation would be required, areas where rock is encountered, truck turnarounds, crossovers, tie-ins, and horizontal directional drill entry and exit points).

Aboveground facilities along the project include pig[4] launcher and receiver facility sites and mainline valve locations, which would typically be located within the permanent right-of-way or adjacent to existing aboveground facility locations (e.g., compressor stations or mainline valve sites). FGT would add between 10 to 20 acres to existing Compressor Stations 11, 12, 13, and 14. Additional land required for construction at these existing compressor stations would be retained for project operations. FGT would also acquire about 30 acres of land for the new Compressor Station 29. Each M&R station site would be located on power plant property.

The EIS Process

NEPA requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity under Section 7 of the Natural Gas Act. NEPA also requires the Commission to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues and reasonable alternatives.

Although no formal application has been filed, we have already initiated our NEPA review under the FERC's Pre-Filing Process. The purpose of the Pre-Filing Process is to encourage the early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC.

As part of our Pre-Filing Process review, representatives from the FERC have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EIS. In addition, representatives from the FERC participated in FGT sponsored public open houses in the project area from April 14–30, 2008, to explain the environmental review process to interested stakeholders and take comments about the project. During early June, 2008, the FERC staff will conduct interagency scoping meetings in the project area to solicit comments and concerns about the project from jurisdictional agencies. By this notice, we are formally announcing our preparation of the EIS and requesting additional agency and public comments to help us focus the analysis in the EIS on the potentially significant environmental issues related to the proposed action.

Our independent analysis of the issues will be included in a draft EIS. The draft EIS will be mailed to federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 45-day comment period will be allotted for review of the draft EIS. We will consider all timely comments on the draft EIS and revise the document, as necessary, before issuing a final EIS. To ensure that your comments are considered, please follow the instructions in the Public Participation section of this notice.

Currently Identified Environmental Issues

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project under the general resource headings listed below. We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by FGT. This preliminary list of issues may be changed based on your comments and our additional analysis.

• Geology and Soils:

—Assessment of potential geologic hazards, including sinkholes.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Internet Web site (*http://www.ferc.gov*) at the ''eLibrary'' link or from the Commission's Public Reference Room at (202) 502–8371. For instructions on connecting to eLibrary, refer to the end of this notice. Copies of the appendices were sent to all those receiving this notice by mail. Requests for detailed maps of the proposed facilities should be made directly to FGT (see *http://www.panhandleenergy.com/FGT/PhaseVIII/* for contact information).

[4] A pipeline ''pig'' is a device designed to internally clean or inspect the pipeline. A pig launcher/receiver is an aboveground facility where pigs are inserted or retrieved from the pipeline.

—Potential impact on mineral resources and mining operations.
—Effect on hydric soils and soils with a high potential for compaction.

• Water Resources and Wetlands:

—Effect on groundwater resources.
—Potential effect on perennial streams, intermittent streams, and ponds crossed by or close to the planned route.
—Effect on waterbodies designated under federal or state programs, including the Escatawpa, Blackwater, Escambia, Yellow, Shoal, Chipola, Apalachicola, Ochlockonee, Aucilla, Suwannee, Sante Fe, Withlacoochee, Hillsborough, and Kissimmee Rivers.
—Evaluation of temporary and permanent effects on wetlands, including forested wetlands.

• Fisheries, Wildlife, and Vegetation:

—Effect on fisheries, wildlife, and vegetation resources, including planted pine and forested habitats.
—Effect on vegetative nuisance species.

• Endangered and Threatened Species and Habitats:

—Potential effect on federal- and state-listed species, including, but not limited to, the wood stork, red-cockaded woodpecker, everglade snail kite, Florida scrub-jay, eastern indigo snake, and gopher tortoise.
—Potential effect on Lake Wales Ridge managed lands.

• Cultural Resources:

—Effect on historic and prehistoric sites.
—Native American and tribal concerns.

• Land Use:

—Impact on residential areas, pine plantations, orange groves, mining, and irrigation and drainage systems.
—Effect on recreation and public interest areas, including wildlife management areas, national forests, state forests, national wildlife refuges, canals, and scenic trail systems.
—Visual effect of the aboveground facilities on surrounding areas.

• Air Quality and Noise:

—Effect on local air quality and noise environment from construction and operation of the proposed facilities.

• Reliability and Safety:

—Assessment of public safety factors associated with natural gas facilities.

• Alternatives:

—Assessment of alternative routes and systems to reduce or avoid environmental impacts.
—Assessment of alternative compressor station sites.

• Cumulative Impacts:

—Assessment of the effect of the proposed project when combined with other projects that have been proposed in the same region and similar time frame.

Public Participation

You can make a difference by providing us with your specific comments or concerns about FGT's Phase VIII Expansion Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please mail your comments so that they will be received in Washington, DC on or before June 20, 2008, and carefully follow these instructions:

• Send an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;

• Label one copy of the comments for the attention of Gas Branch 1, DG2E; and

• Reference Docket No. PF08–14–000 on the original and both copies.

The public scoping meetings between June 3 and June 11, 2008, are designed to provide another opportunity to offer comments on the proposed project. Interested groups and individuals are encouraged to attend these meetings and to present comments on the environmental issues they believe should be addressed in the EIS. Transcripts of the meetings will be made so that your comments will be accurately recorded. In addition, we have asked FGT to be available with project location maps to answer landowner comments from 5:30 p.m. to the start of the meeting at the respective locations.

The Commission encourages electronic filing of comments. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the link to ''Documents and Filings'' and ''eFiling.'' eFiling is a file attachment process and requires that you prepare your submission in the same manner as you would if filing on paper, and save it to a file on your hard drive. New eFiling users must first create an account by clicking on ''Sign up'' or ''eRegister.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.'' In addition, there is a ''Quick Comment'' option available, which is an easy method for interested persons to submit text-only comments on a project. The Quick-Comment User Guide can be viewed at *http://www.ferc.gov/docs-filing/efiling/quick-comment-guide.pdf*. Quick Comment does not require a FERC eRegistration account; however, you will be asked to provide a valid e-mail address. All comments submitted under either eFiling or the Quick Comment option are placed in the public record for the specified docket or project number(s). We will include all comments that we receive within a reasonable time frame in our environmental analysis of the project.

Once FGT formally files its application with the Commission, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''eFiling'' link on the Commission's Web site. Please note that you may not request intervenor status at this time. You must wait until a formal application is filed with the Commission. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

If you want to remain on our mailing list and receive future mailings, please return the ''Remain on Mailing List Form'' included in Appendix 2. If you do not return this form, you will be removed from the Commission's environmental mailing list.

Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs at 1–866–208 FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the ''Docket Number'' field (i.e., PF08–14). Be sure you have selected an appropriate date range. For assistance with eLibrary, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link on the FERC Internet Website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm*.

Public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Finally, FGT has established an Internet Web site for its project at *http://www.panhandleenergy.com/FGT/PhaseVIII/*. The Web site includes a description of the project and links to related documents.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–11695 Filed 5–23–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No 12715–001]

Fairlawn Hydroelectric Company, LLC.; Notice of Intent To File License Application, Filing of Pre-Application Document, Commencement of Licensing Proceeding, Scoping Meetings, Solicitation of Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

May 19, 2008.

a. *Type of Filing:* Notice of Intent to File License Application and Commencing Licensing Proceeding.

b. *Project No.:* 12715–001.

c. *Date Filed:* March 19, 2008.

d. *Submitted By:* Fairlawn Hydroelectric Company, LLC.

e. *Name of Project:* Jennings Randolph Hydroelectric Project.

f. *Location:* At the Corps of Engineers' Jennings Randolph Dam on the North Branch Potomac River in Garrett County, Maryland, and Mineral County, West Virginia.

g. *Filed Pursuant to:* 18 CFR Part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* Clifford Phillips, Fairlawn Hydroelectric Company, LLC, 150 North Miller Road, Suite 450 C, Fairlawn, Ohio 44333, (330) 869–8451.

i. *FERC Contact:* Michael Spencer, *michael.spencer@ferc.gov*, (202) 502–6093.

j. We are asking federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in paragraph o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See*, 94 FERC ¶ 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR Part 402; and (b) the State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Fairlawn Hydroelectric Company, LLC as the Commission's non-federal representative for carrying out informal consultation, pursuant to Section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. Fairlawn Hydroelectric Company, LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations. The Commission issued the scoping document for the proposed Jennings Randolph Project on May 19, 2008.

n. A copy of the PAD and the scoping document are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice we are soliciting comments on the PAD and the scoping document, as well as study requests. All comments on the PAD and the scoping document, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and the scoping document, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application (original and eight copies) must be filed with the Commission at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, the project name (Jennings Randolph Project) and number (P–12715–001), and bear the heading ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or the scoping document, and any agency requesting cooperating status must do so by July 17, 2008.

Comments on the PAD and the scoping document, study requests, requests for cooperating agency status, and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 85.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-filing'' link.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental

document. The times and locations of these meetings are as follows:

Evening Scoping Meeting

Date: Monday, June 16, 2008.
Time: 6 p.m. (EST).
Location: Will O' The Wisp Hotel, 20160 Garrett Highway, Oakland, MD 21550.
Phone: (888) 590–7283.

Daytime Scoping Meeting

Date: Tuesday, June 17, 2008.
Time: 10 a.m.
Location: Same location.

The scoping document, which outlines the issues to be addressed in the environmental document, has been mailed to the individuals and entities on the Commission's mailing list. Copies of the scoping document will be available at the scoping meetings, and may be viewed on the Web at *http://www.ferc.gov*, using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Depending on the extent of comments received, a revised scoping document may or may not be issued.

Site Visit

Fairlawn Hydroelectric Company, LLC. will conduct a tour of the proposed project site at 3 p.m. on Monday, June 16, 2008. All participants should meet at the gated entrance to Jennings Randolph Dam on Route 46 in West Virginia. All participants are responsible for providing photo identification to enter this Corps of Engineers facility. Photography will be prohibited. Anyone with questions about the site visit should contact Mr. Clifford Phillips of Fairlawn Hydroelectric Company, LLC at (330) 869–8451 on or before June 13, 2008.

Scoping Meeting Objectives

At the scoping meetings, staff will: (1) Present a proposed list of issues to be addressed in the EA; (2) review and discuss existing conditions and resource agency management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss requests by any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and the scoping document are included in item n of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the project.

Kimberly D. Bose,
Secretary.

[FR Doc. E8–11696 Filed 5–23–08; 8:45 am]
BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8571–7]

Workshop to Review Initial Draft Materials for the Particulate Matter (PM) Integrated Science Assessment (ISA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of workshop.

SUMMARY: As part of its review of the air quality criteria and National Ambient Air Quality Standard (NAAQS) for Particulate Matter (PM), EPA is announcing that a workshop to evaluate initial draft materials for the PM Integrated Science Assessment (ISA) is being organized by EPA's National Center for Environmental Assessment (NCEA), and will be held on June 16 and 17, 2008, in Research Triangle Park, NC. The workshop will be open to attendance by interested public observers on a first-come, first-served basis up to the limits of available space.

DATES: The workshop will be held on June 16 and 17, 2008.

ADDRESSES: The workshop will be held in the Auditorium of EPA's main campus, 109 T.W. Alexander Drive, Research Triangle Park, NC. An EPA contractor, Westat, is providing logistical support for the workshop.

FOR FURTHER INFORMATION CONTACT: Questions regarding information, registration, and logistics for the workshop should be directed to David Marker, Westat, Inc., Conference Coordinator, 1650 Rockville, MD 20850–3195, telephone: 301–251–4398; facsimile: 301–294–2829; e-mail: *davidmarker@westat.com*. Questions regarding the scientific and technical aspects of the workshop should be directed to Dr. Lindsay Stanek, telephone: 919–541–7792; facsimile: 919–541–2985; e-mail: *Stanek.Lindsay@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Information About the Workshop

Section 109(d) of the Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to conduct periodic reviews of the air quality criteria for each air pollutant listed under section 108 of the Act. Based on such review, EPA is to retain or revise the NAAQS for a given pollutant as appropriate. As part of these reviews, NCEA, within EPA's Office of Research and Development, assesses the newly available scientific information and develops ISA documents and annexes (formerly known as Criteria Documents) that provide the scientific basis for the reviews of the NAAQS for PM, ozone, carbon monoxide, nitrogen oxides, sulfur oxides, and lead. Based on the information in the ISA, EPA's Office of Air Quality Planning and Standards typically conducts quantitative and qualitative risk and exposure assessments. The ISA and the risk/exposure assessments are used to prepare a policy assessment that informs subsequent rulemaking actions.

NCEA–RTP is holding this workshop to inform the Agency's evaluation of the scientific evidence for the review of the NAAQS for PM. The purpose of the workshop is to obtain review of the scientific content of initial draft materials or sections for the draft ISA and its annexes. Workshop sessions will include review and discussion of initial draft sections on: (1) Atmospheric science and exposure studies; (2) the welfare effects of PM, including visibility, ecological and environmental effects, and climate; and (3) the health effects evidence from in vivo and in vitro animal toxicology, human clinical, and epidemiology studies. In addition, roundtable discussions will help identify key studies or concepts within each discipline to assist EPA in integrating within and across disciplines. This workshop is planned to help ensure that the ISA is up-to-date and focuses on the key evidence to inform the scientific understanding for the review of the NAAQS for PM. EPA is planning to release the first external review draft ISA for PM for review by the Clean Air Scientific Advisory Committee (CASAC) and the public in the Fall of 2008. This review will be announced in a separate **Federal Register** notice.

II. Workshop Information

Members of the public may attend the workshop as observers. Space is limited, and reservations will be accepted on a first-come, first-served basis.

Dated: May 20, 2008.

Peter Preuss,

Director, National Center for Environmental Assessment.

[FR Doc. E8–11755 Filed 5–23–08; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

DATE AND TIME: Monday, June 2, 2008, 2 p.m. Eastern Time.

PLACE: Clarence M. Mitchell, Jr. Conference Room on the Ninth Floor of the EEOC Office Building, 1801 ''L'' Street, NW., Washington, DC 20507.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Announcement of Notation Votes, and

2. Notice of Proposed Rulemaking—Federal Sector Regulations, 29 CFR Part 1614.

Note: In accordance with the Sunshine Act, the meeting will be open to public observation of the Commission's deliberations and voting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.)

Please telephone (202) 663–7100 (voice) and (202) 663–4074 (TTY) at any time for information on these meetings. The EEOC provides sign language interpretation at Commission meetings for the hearing impaired. Requests for other reasonable accommodations may be made by using the voice and TTY numbers listed above. *Contact Person for More Information:* Stephen Llewellyn, Executive Officer on (202) 663–4070.

This Notice Issued May 21, 2008.

Stephen Llewellyn,

Executive Officer, Executive Secretariat.

[FR Doc. E8–11730 Filed 5–23–08; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget, Comments Requested

May 20, 2008.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to comment on the following information collection(s). Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before June 26, 2008. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your comments to Nicholas A. Fraser, Office of Management and Budget (e-mail address: *nfraser@omb.eop.gov*), and to the Federal Communications Commission's PRA mailbox (e-mail address: *PRA@fcc.gov*). Include in the e-mails the OMB control number of the collection as shown in the **SUPPLEMENTARY INFORMATION** section below or, if there is no OMB control number, the Title as shown in the **SUPPLEMENTARY INFORMATION** section. If you are unable to submit your comments by e-mail contact the person listed below to make alternate arrangements.

FOR FURTHER INFORMATION CONTACT: For additional information contact Leslie F. Smith via e-mail at *PRA@fcc.gov* or at (202) 418–0217. To view or obtain a copy of an information collection request (ICR) submitted to OMB: (1) Go to this OMB/GSA Web page: *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of the ICR you want to view (or its title if there is no OMB control number) and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1046.

Title: Part 64, Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 1,023 respondents; 8,904 responses.

Estimated Time per Response: 20.04 hours (average).

Obligation to Respond: Mandatory, as required by 47 U.S.C. Section 276.

Frequency of Response: One time, quarterly, and annual reporting requirements; recordkeeping requirement; and third party disclosure requirement.

Total Annual Burden: 178,392 hours.

Total Annual Cost: $0.00.

Privacy Act Impact Assessment: No impacts.

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit Confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under section 0.459 of the Commission's rules, 47 C.F.R. section 0.459.

Needs and Uses: The Commission released an *Order on Reconsideration*, the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96–128, FCC 04–251, on October 22, 2004, which increased the time carriers must retain certain data and adds burden in that regard. It also

removed potentially burdensome paperwork requirements by encouraging carriers to comply with the reporting requirements through electronic means. We believe that the clarifications adopted in the *Order on Reconsideration* significantly decrease the paperwork burden on carriers. Specifically, the Commission: (1) Clarified that Completing Carriers must provide the Payphone Service Provider (PSP) with adequate notice of an alternative compensation arrangement (ACA) prior to its effective date with sufficient time for the PSP to object to an ACA, and also prior to the termination of an ACA; (2) clarified any paperwork burdens imposed on carriers and allowed Completing Carriers to provide notice of ACAs on a clearinghouse's Web site; (3) required Completing Carriers to report only completed calls in their quarterly reports; and (4) extended the time period from 18 to 27 months for Completing Carriers and Intermediate Carriers to retain certain payphone records.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–11777 Filed 5–23–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2867]

Petition for Reconsideration of Action in Rulemaking Proceeding

May 16, 2008.

A Petition for Reconsideration has been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR section 1.429(e). The full text of this document is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to this petition must be filed by *June 11, 2008.* See section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: In the Matter of: Federal-State Joint Board on Universal Service (CC Docket No. 96–45); Access Charge Reform (CC Docket No. 96–262) (WC Docket No. 06–122).

Number of Petitions Filed: 1.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–11775 Filed 5–23–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Guidelines for Appeals of Material Supervisory Determinations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice and request for comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) proposes to amend its Guidelines for Appeals of Material Supervisory Determinations to better align the FDIC's Supervisory Appeals Review Committee (SARC) process with the material supervisory determinations appeals procedures at the other Federal banking agencies. The proposed amendments would modify the supervisory determinations eligible for appeal to eliminate the ability of an FDIC-supervised institution to file an appeal with the SARC with respect to determinations or the facts and circumstances underlying a formal enforcement-related action or decision, including the initiation of an investigation. The proposed amendments also include limited technical amendments.

DATES: Written comments on the Proposal must be received by the FDIC on or before July 28, 2008 for consideration.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Agency Web Site: http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow the instructions for submitting comments.
- *E-mail: comments@fdic.gov.* Include ''Guidelines for Appeals of Material Supervisory Determinations'' in the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station located at the rear of the FDIC's 550 17th Street building (accessible from F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All submissions received must include the agency name and use the title ''Guidelines for Appeals of Material Supervisory Determinations.''

All comments received will be posted without change to, *http://www.fdic.gov/regulations/laws/federal/propose.html,* including any personal information provided.

Comments may be inspected and photocopied in the FDIC Public Information Center, Room E–1002, 3501 North Fairfax Drive, Arlington, VA 22226 between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Frank Gray, Section Chief, FDIC, 550 17th Street, NW., Washington, DC 20429 [F–4054]; telephone: (202) 898–3508; or electronic mail: *fgray@fdic.gov;* or Richard Bogue, Counsel, FDIC, 550 17th Street, NW., Washington, DC 20429 [MB–3014]; telephone: (202) 898–3726; facsimile: (202) 898–3658; or electronic mail: *rbogue@fdic.gov.*

SUPPLEMENTARY INFORMATION: The FDIC is publishing for notice and comment proposed amendments to the Guidelines for Appeals of Material Supervisory Determinations. The FDIC considers it desirable in this instance to garner comments regarding these amendments to the guidelines, although notice and comment is not required and may not be employed in any future amendments.

The proposed amendments would be effective upon adoption and are intended to more closely align the FDIC's Guidelines for Appeals of Material Supervisory Determinations to the material supervisory determination appeals processes of the other Federal banking agencies.

Background

Section 309(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325, 108 Stat. 2160) (Riegle Act), required the FDIC (as well as the other Federal banking agencies and the National Credit Union Administration Board (NCUA)) to establish an independent intra-agency appellate process to review material supervisory determinations. The Riegle Act defines the term ''independent appellate process'' to mean a review by an agency official who does not directly or indirectly report to the agency official who made the material supervisory determination under review. In the appeals process, the FDIC is required to ensure that (1) an appeal of a material supervisory determination by an insured depository institution is heard and decided expeditiously; and (2) appropriate safeguards exist for

protecting appellants from retaliation by agency examiners.

The term ''material supervisory determinations'' is defined in the Riegle Act to include determinations relating to: (1) Examination ratings; (2) the adequacy of loan loss reserve provisions; and (3) classifications on loans that are significant to an institution. The Riegle Act specifically excludes from the definition of ''material supervisory determinations'' a decision to appoint a conservator or receiver for an insured depository institution or to take prompt corrective action pursuant to section 38 of the Federal Deposit Insurance Act (''FDI Act''), 12 U.S.C. 1831o. Finally, Section 309(g) (12 U.S.C. 4806(g)) expressly provides that the Riegle Act's requirement to establish an appeals process shall not affect the authority of the Federal banking agencies to take enforcement or supervisory actions against an institution.

On December 28, 1994, the FDIC published in the **Federal Register**, for a 30-day comment period, a notice of and request for comments on proposed Guidelines for Appeals of Material Supervisory Determinations (''Guidelines'') (59 FR 66965). In the proposed Guidelines, the FDIC proposed that the term ''material supervisory determinations,'' in addition to the statutory exclusions noted above, also should not include: (1) Determinations for which other appeals procedures exist (such as determinations relating to deposit insurance assessment risk classifications); (2) decisions to initiate formal enforcement actions under section 8 of the FDI Act; (3) decisions to initiate informal enforcement actions (such as memoranda of understanding); (4) determinations relating to a violation of a statute or regulation; and (5) any other determinations not specified in the Riegle Act as being eligible for appeal.

Commenters to the proposed Guidelines suggested that the proposed limitations on determinations eligible for appeal were too restrictive. In response to comments received, the FDIC modified the proposed Guidelines. The FDIC added a final clarifying sentence to the listing of ''Determinations Not Eligible for Appeal'' in the Guidelines as follows: ''The FDIC recognizes that, although determinations to take prompt corrective action or initiate formal or informal enforcement actions are not appealable, the determinations upon which such actions may be based (*e.g.*, loan classifications) are appealable provided they otherwise qualify.'' (60 FR 15929, March 28, 1995). On March 21, 1995, the FDIC's Board of Directors adopted the proposed Guidelines. (60 FR 15923).

On March 18, 2004, the FDIC published in the **Federal Register**, for a 30-day comment period, a notice and request for comments respecting proposed revisions to the Guidelines. (69 FR 12855). On July 9, 2004, the FDIC published in the **Federal Register** a notice of guidelines which, effective June 28, 2004, adopted the revised Guidelines changing the composition and procedures of the SARC. (69 FR 41479). The revised Guidelines were disseminated to FDIC-supervised financial institutions through a Financial Institution Letter, FIL–113–2004, issued October 13, 2004.

Proposed Amendments

I. Amendment of Determinations Eligible for Review

Determinations underlying enforcement actions, such as the citation of apparent violations of law or regulation, have been appealable under the FDIC's Guidelines since their enactment in 1995. Recent SARC appeals by FDIC-supervised institutions have, however, highlighted a situation where an appeal to the SARC is inconsistent with the intent of the Riegle Act that ''the appeals process not impair, in any way, the agencies' litigation or enforcement authority.'' (Senate Report No. 103–169). Accordingly, the proposed amendments to the Guidelines would eliminate the ability of an FDIC-supervised institution to file an appeal with the SARC with respect to determinations or the facts and circumstances underlying formal enforcement-related actions or decisions, including the initiation of a formal investigation. The proposed amendments to the Guidelines satisfy the requirements of the Riegle Act and better align the FDIC's material supervisory determination appeals procedures with those of the other Federal banking agencies.

A. Independent Review Requirement

Section 309(a) of the Riegle Act required the FDIC to establish an appellate process to review material supervisory determinations. The SARC must make its decision based on ''facts of record,'' which are limited to the Report of Examination, the FDIC-supervised institution's appeal, an FDIC staff response, and, in some cases, a brief oral presentation before the SARC. The SARC appeals process does not involve any further factual development through investigation or discovery.

Decisions to proceed with a formal enforcement action, on the other hand, must be supported by facts demonstrating both the existence of the violation at issue as well as facts that satisfy all of the required elements of the enforcement action to be pursued. All FDIC formal enforcement actions are reviewed by a number of high-level FDIC officials both prior and subsequent to their initiation. The ability to initiate (through issuance of a notice or stipulated order) routine cease-and-desist actions under section 8(b) of the FDI Act has for more than a decade been delegated to FDIC Regional Directors. Decisions to initiate enforcement actions pursuant to section 8(b) of the FDI Act must be made at the Deputy Regional Director or Regional Director level, following review and concurrence by the Regional Counsel.

All other, non-routine formal enforcement actions are generally reviewed at the highest levels of the FDIC before issuance. Ultimately, the FDIC Board of Directors (the Board) decides the outcome of any contested enforcement action and that decision is fully supported by a factual record compiled through investigation, discovery, and an administrative hearing held before an impartial administrative law judge who makes findings of facts, conclusions of law and recommends a decision to the Board. The FDIC's current procedures for initiating formal enforcement actions ensure review of material supervisory determinations by high level FDIC officials. Thus, there is no need for determinations underlying formal enforcement actions to be separately reviewable by the SARC.

B. Parity With Other Federal Agencies

As previously noted, the Riegle Act required all of the Federal banking agencies and the NCUA to establish appellate processes to review material supervisory determinations. While the various appellate processes adopted by the Federal banking agencies differ in substance and procedure, no Federal bank agency, other than the FDIC, expressly allows review of determinations that underlie formal enforcement actions.

OCC Bulletin 2002–9, National Bank Appeals Procedures (February 25, 2002) (OCC Guidelines), which governs the appeals procedure adopted at the OCC, exempts from its definition of appealable matters ''any formal enforcement-related actions or decisions, including decisions to: (a) Seek the issuance of a formal agreement or cease and desist order, or the assessment of a civil money penalty

pursuant to Section 8 of the [FDI Act] * * * and (d) commence formal investigations pursuant to 12 U.S.C. 481, 1818(n) and 1820(c) * * *.'' Additionally, OCC Guidelines define the term ''formal enforcement-related actions or decisions'' as including ''the underlying facts that form the basis of a recommended or pending formal enforcement action, the acts or practices that are the subject of a pending formal enforcement action, and OCC determinations regarding compliance with an existing formal enforcement action.''

The supervisory determinations that may be reviewed on appeal by the OTS, as defined by Thrift Bulletin TB 68a (June 10, 2004), include examination ratings, adequacy of loan loss reserve provisions, and significant loan classifications, but does not extend to decisions relating to ''formal enforcement-related action'' such as ''[i]nitiating a formal investigation[,]'' ''[f]iling a notice of charges[,]'' and ''[a]ssessing civil money penalties.'' Both the OCC and the OTS specifically include formal investigations in the definitions of enforcement-related actions excepted from appeal.

During the adoption of its internal appeals process, the Board of Governors of the Federal Reserve System (Federal Reserve) specifically rejected a suggestion received through comment that institutions consenting to the issuance of a formal enforcement action, such as a cease-and-desist order, be allowed to use the internal appeals process to challenge the material supervisory determinations that led to the enforcement action. The Federal Reserve found this suggestion to be inconsistent with the intent of the Riegle Act, which was to ''provide an avenue for the review of material supervisory determinations and not to contest enforcement actions for which an alternative appeals mechanism exists.'' (60 FR 16472, March 30, 1995).

The National Credit Union Association (NCUA) limits the type of determinations eligible for review under its appeals process to the determinations expressly stated in section 309, namely: (1) Composite CAMEL rating of 3, 4, and 5 and all component ratings of those composite ratings; (2) adequacy of loan loss reserve provisions; and (3) loan classifications on loans that are significant as determined by the appealing credit union. (60 FR 14795, March 20, 1995).

Thus, in addition to satisfying the Riegle Act's requirement that the Federal banking agencies adopt independent review processes, the proposed amendments would modify the FDIC's current Guidelines so as to be consistent with the other Federal banking agencies, promoting equal treatment of all banks and thrifts appealing material supervisory determinations.

C. Notice of Enforcement-Related Action or Decision

At present, only the OCC's Guidelines explicitly provide that a decision to pursue a formal enforcement action will cut off rights to file a material supervisory determination appeal. In this regard, OCC Bulletin 2002–9 states that a formal enforcement-related action or decision ''commences when a Supervision Review Committee determines that the OCC will pursue a formal action,'' at which time the matter becomes unappealable. The OCC has Supervision Review Committees at both the Regional and Washington offices with delegations of authority to initiate different types of formal enforcement actions. The FDIC structure of enforcement matter decisionmaking is different, generally vesting authority to initiate formal enforcement actions in designated DSC officials, in some cases with concurrence requirements and in some cases following oversight by the Case Review Committee in Washington.

The essence of the OCC's cut-off date is that a decision has been made by appropriately authorized officials that a formal enforcement action will be pursued. In order to mirror the cut-off date as closely as possible, the proposed amendments would establish the FDIC's cut-off date as the date when ''the FDIC * * * provides written notice to the bank indicating its intention to pursue available formal enforcement remedies * * *.'' Operational procedures will be established that provide that when an FDIC official with authority to initiate a formal enforcement action decides that the facts and circumstances then known warrant initiation of such action, a letter to the bank will be sent notifying the bank of the decision to pursue formal action. Such notice will render the underlying facts and circumstances that form the basis of the enforcement action unappealable.

II. Additional Technical Amendments

Paragraph C of the Guidelines (Institutions Eligible to Appeal) states that the Guidelines apply to insured depository institutions that the FDIC supervises ''(*i.e.*, insured State nonmember banks (except District banks) and insured branches of foreign banks).'' The 2004 District of Columbia Omnibus Authorization Act, Public Law No. 108–386, § 8, extended to the FDIC regulatory and supervisory authority over District of Columbia banks. Consequently, the parenthetical ''except District banks'' would be stricken from Paragraph C of the Guidelines.

Paragraph G of the Guidelines (Appeal to the SARC) provides that the Director of the Division of Supervision and Consumer Protection may, with the approval of the SARC Chairperson, transfer a request for review directly to the SARC if the Director determines that the institution is entitled to relief that the Director lacks delegated authority to grant. This provision expedites the SARC process by eliminating the need for the Division Director to deny relief to an institution to enable it to file its appeal to the SARC. In order to further facilitate the prompt resolution of requests for review, a mechanism through which the Division Director may seek guidance from the SARC Chairperson is proposed for Paragraph G. An addition to Paragraph G would read: ''The Division Director may also request guidance from the SARC Chairperson as to procedural or other questions relating to any request for review.''

For the aforementioned reasons, the FDIC Board of Directors proposes to revise the Guidelines for Appeals of Material Supervisory Determinations as set forth below.

* * * * *

Proposed Amended Guidelines for Appeals of Material Supervisory Determinations

A. Introduction

Section 309(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325, 108 Stat. 2160) (''Riegle Act'') required the Federal Deposit Insurance Corporation (''FDIC'') to establish an independent intra-agency appellate process to review material supervisory determinations made at insured depository institutions that it supervises. The Guidelines for Appeals of Material Supervisory Determinations (''guidelines'') describe the types of determinations that are eligible for review and the process by which appeals will be considered and decided. The procedures set forth in these guidelines establish an appeals process for the review of material supervisory determinations by the Supervision Appeals Review Committee (''SARC'').

B. SARC Membership

The following individuals comprise the three (3) voting members of the SARC: (1) One inside FDIC Board member, either the Chairperson, the Vice Chairperson, or the FDIC Director

(Appointive), as designated by the FDIC Chairperson (this person would serve as the Chairperson of the SARC); and (2) one deputy or special assistant to each of the inside FDIC Board members who are not designated as the SARC Chairperson. The General Counsel is a non-voting member of the SARC. The FDIC Chairperson may designate alternate member(s) to the SARC if there are vacancies so long as the alternate member was not involved in making or affirming the material supervisory determination under review. A member of the SARC may designate and authorize the most senior member of his or her staff within the substantive area of responsibility related to cases before the SARC to act on his or her behalf.

C. Institutions Eligible To Appeal

The guidelines apply to the insured depository institutions that the FDIC supervises (*i.e.*, insured State nonmember banks and insured branches of foreign banks) and also to other insured depository institutions with respect to which the FDIC makes material supervisory determinations.

D. Determinations Subject To Appeal

An institution may appeal any material supervisory determination pursuant to the procedures set forth in these guidelines. Material supervisory determinations include:

(a) CAMELS ratings under the Uniform Financial Institutions Rating System;

(b) EDP ratings under the Uniform Interagency Rating System for Data Processing Operations;

(c) Trust ratings under the Uniform Interagency Trust Rating System;

(d) CRA ratings under the Revised Uniform Interagency Community Reinvestment Act Assessment Rating System;

(e) Consumer compliance ratings under the Uniform Interagency Consumer Compliance Rating System;

(f) Registered transfer agent examination ratings;

(g) Government securities dealer examination ratings;

(h) Municipal securities dealer examination ratings;

(i) Determinations relating to the adequacy of loan loss reserve provisions;

(j) Classifications of loans and other assets in dispute the amount of which, individually or in the aggregate, exceed 10 percent of an institution's total capital;

(k) Determinations relating to violations of a statute or regulation that may impact the capital, earnings, or operating flexibility of an institution, or otherwise affect the nature and level of supervisory oversight accorded an institution;

(l) Truth in Lending (Regulation Z) restitution;

(m) Filings made pursuant to 12 CFR 303.11(f), for which a Request for Reconsideration has been granted, other than denials of a change in bank control, change in senior executive officer or board of directors, or denial of an application pursuant to section 19 of the FDI Act (which are contained in 12 CFR 308, subparts D, L, and M, respectively), if the filing was originally denied by the DSC Director, Deputy Director or Associate Director; and

(n) Any other supervisory determination (unless otherwise not eligible for appeal) that may impact the capital, earnings, operating flexibility, or capital category for prompt corrective action purposes of an institution, or otherwise affect the nature and level of supervisory oversight accorded an institution.

Material supervisory determinations do not include:

(a) Decisions to appoint a conservator or receiver for an insured depository institution;

(b) Decisions to take prompt corrective action pursuant to section 38 of the Federal Deposit Insurance Act, 12 U.S.C. 1831o;

(c) Determinations for which other appeals procedures exist (such as determinations of deposit insurance assessment risk classifications and payment calculations);

(d) Decisions to initiate informal enforcement actions (such as memoranda of understanding); and

(e) Formal enforcement-related actions and decisions, including determinations and the underlying facts and circumstances that form the basis of a recommended or pending formal enforcement action, and FDIC determinations regarding compliance with an existing formal enforcement action.

A formal enforcement-related action or decision commences, and therefore becomes unappealable, when the FDIC initiates a formal investigation under 12 U.S.C. 1820(c) or provides written notice to the bank indicating its intention to pursue available formal enforcement remedies under applicable statutes or published enforcement-related policies of the FDIC, including written notice of a referral to the Attorney General or a notice to the Secretary of Housing and Urban Development for violations of the Equal Credit Opportunity Act or the Fair Housing Act. For the purposes of these guidelines, remarks in a Report of Examination do not constitute written notice of intent to pursue formal enforcement remedies.

E. Good Faith Resolution

An institution should make a good faith effort to resolve any dispute concerning a material supervisory determination with the on-site examiner and/or the appropriate Regional Office. The on-site examiner and the Regional Office will promptly respond to any concerns raised by an institution regarding a material supervisory determination. Informal resolution of disputes with the on-site examiner and/or the appropriate Regional Office is encouraged, but seeking such a resolution is not a condition to filing a request for review with the Division of Supervision and Consumer Protection or an appeal to the SARC under these guidelines.

F. Filing a Request for Review With the FDIC Division of Supervision and Consumer Protection

An institution may file a request for review of a material supervisory determination with the Director, Division of Supervision and Consumer Protection, 550 17th Street, NW., Room F–4076, Washington, DC 20429, within 60 calendar days following the institution's receipt of a report of examination containing a material supervisory determination or other written communication of a material supervisory determination. A request for review must be in writing and must include:

(a) A detailed description of the issues in dispute, the surrounding circumstances, the institution's position regarding the dispute and any arguments to support that position (including citation of any relevant statute, regulation, policy statement or other authority), how resolution of the dispute would materially affect the institution, and whether a good faith effort was made to resolve the dispute with the on-site examiner and the Regional Office; and

(b) A statement that the institution's board of directors has considered the merits of the request and authorized that it be filed.

The Director, Division of Supervision and Consumer Protection, will issue a written determination of the request for review, setting forth the grounds for that determination, within 30 days of receipt of the request. No appeal to the SARC will be allowed unless an institution has first filed a timely request for review with the Division of Supervision and Consumer Protection.

G. Appeal to the SARC

An institution that does not agree with the written determination rendered by the Director of the Division of Supervision and Consumer Protection must appeal that determination to the SARC within 30 calendar days from the date of that determination. The Director's determination will inform the institution of the 30-day time period for filing with the SARC and will provide the mailing address for any appeal the institution may wish to file. Failure to file within the 30-day time limit may result in denial of the appeal by the SARC. If the Director of the Division of Supervision and Consumer Protection determines that an institution is entitled to relief that the Director lacks delegated authority to grant, the Director may, with the approval of the Chairperson of the SARC, transfer the matter directly to the SARC without issuing a determination. Notice of such a transfer will be provided to the institution. The Division Director may also request guidance from the SARC Chairperson as to procedural or other questions relating to any request for review.

H. Filing With the SARC

An appeal to the SARC will be considered filed if the written appeal is received by the FDIC within 30 calendar days from the date of the division director's written determination or if the written appeal is placed in the U.S. mail within that 30-day period. If the 30th day after the date of the division director's written determination is a Saturday, Sunday or Federal holiday, filing may be made on the next business day. The appeal should be sent to the address indicated on the determination being appealed.

I. Contents of Appeal

The appeal should be labeled to indicate that it is an appeal to the SARC and should contain the name, address, and telephone number of the institution and any representative, as well as a copy of the determination being appealed. If oral presentation is sought, that request should be included in the appeal. Only matters previously reviewed at the division level, resulting in a written determination or direct referral to the SARC, may be appealed to the SARC. Evidence not presented for review to the DSC Director may be submitted to the SARC only if authorized by the SARC Chairperson. The institution should set forth all of the reasons, legal and factual, why it disagrees with the determination. Nothing in the SARC administrative process shall create any discovery or other such rights.

J. Burden of Proof

The burden of proof as to all matters at issue in the appeal, including timeliness of the appeal if timeliness is at issue, rests with the institution.

K. Oral Presentation

The SARC may, in its discretion, whether or not a request is made, determine to allow an oral presentation. The SARC generally grants a request for oral presentation only if it determines that oral presentation is likely to be helpful or would otherwise be in the public interest. Notice of the SARC's determination to grant or deny a request for oral presentation will be provided to the institution. If oral presentation is held, the institution will be allowed to present its positions on the issues raised in the appeal and to respond to any questions from the SARC. The SARC may also require that FDIC staff participate as the SARC deems appropriate.

L. Dismissal and Withdrawal

An appeal may be dismissed by the SARC if it is not timely filed, if the basis for the appeal is not discernable from the appeal, or if the institution moves to withdraw the appeal.

M. Scope of Review and Decision

The SARC will review the appeal for consistency with the policies, practices and mission of the FDIC and the overall reasonableness of and the support offered for the positions advanced, and notify the institution, in writing, of its decision concerning the disputed material supervisory determination(s) within 60 days from the date the appeal is filed, or within 60 days from oral presentation, if held. SARC review will be limited to the facts and circumstances as they existed prior to or at the time the material supervisory determination was made, even if later discovered, and no consideration will be given to any facts or circumstances that occur or corrective action taken after the determination was made. The SARC may reconsider its decision only on a showing of an intervening change in the controlling law or the availability of material evidence not reasonably available when the decision was issued.

N. Publication of Decisions

SARC decisions will be published. Published SARC decisions will be redacted to avoid disclosure of exempt information. Published SARC decisions may be cited as precedent in appeals to the SARC.

O. SARC Guidelines Generally

Appeals to the SARC will be governed by these guidelines. The SARC will retain the discretion to waive any provision of the guidelines for good cause; the SARC may adopt supplemental rules governing SARC operations; the SARC may order that material be kept confidential; and the SARC may consolidate similar appeals.

P. Limitation on Agency Ombudsman

The subject matter of a material supervisory determination for which either an appeal to the SARC has been filed or a final SARC decision issued is not eligible for consideration by the Ombudsman.

Q. Coordination With State Regulatory Authorities

In the event that a material supervisory determination subject to a request for review is the joint product of the FDIC and a State regulatory authority, the Director, Division of Supervision and Consumer Protection, will promptly notify the appropriate State regulatory authority of the request, provide the regulatory authority with a copy of the institution's request for review and any other related materials, and solicit the regulatory authority's views regarding the merits of the request before making a determination. In the event that an appeal is subsequently filed with the SARC, the SARC will notify the institution and the State regulatory authority of its decision. Once the SARC has issued its determination, any other issues that may remain between the institution and the State authority will be left to those parties to resolve.

R. Effect on Supervisory or Enforcement Actions

The use of the procedures set forth in these guidelines by any institution will not affect, delay, or impede any formal or informal supervisory or enforcement action in progress or affect the FDIC's authority to take any supervisory or enforcement action against that institution.

S. Effect on Applications or Requests for Approval

Any application or request for approval made to the FDIC by an institution that has appealed a material supervisory determination which relates to or could affect the approval of the application or request will not be considered until a final decision concerning the appeal is made unless otherwise requested by the institution.

T. Prohibition on Examiner Retaliation

The FDIC has an experienced examination workforce and is proud of its professionalism and dedication. FDIC policy prohibits any retaliation, abuse, or retribution by an agency examiner or any FDIC personnel against an institution. Such behavior against an institution that appeals a material supervisory determination constitutes unprofessional conduct and will subject the examiner or other personnel to appropriate disciplinary or remedial action. Institutions that believe they have been retaliated against are encouraged to contact the Regional Director for the appropriate FDIC region. Any institution that believes or has any evidence that it has been subject to retaliation may file a complaint with the Director, Office of the Ombudsman, Federal Deposit Insurance Corporation, 550 17th Street, Washington, DC 20429, explaining the circumstances and the basis for such belief or evidence and requesting that the complaint be investigated and appropriate disciplinary or remedial action taken. The Office of the Ombudsman will work with the Division of Supervision and Consumer Protection to resolve the allegation of retaliation.

By order of the Board of Directors.

Dated at Washington, DC, the 15th day of April, 2008.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E8–11416 Filed 5–23–08; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 20, 2008.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Capitol Bancorp, Ltd., and Capitol Development Bancorp Limited VII, both of Lansing, Michigan, to acquire 51 percent of the voting shares of Central Arizona Bank (in organization), Casa Grande, Arizona.

2. Capitol Bancorp, Ltd., and Capitol Development Bancorp Limited VII, both of Lansing, Michigan, to acquire 51 percent of the voting shares of Sunrise Bank of Norman (in organization), Norman, Oklahoma.

Board of Governors of the Federal Reserve System, May 21, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–11743 Filed 5–23–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 10, 2008.

A. Federal Reserve Bank of Atlanta (Steve Foley, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Bancolombia, S.A., and Suramerica de Inversiones S.A., Inversiones Argos S.A., both of Medellin, Colombia, and Cementos Argos S.A. Barranquilla, Colombia, to retain 50 percent of their direct and indirect interests in Todo 1 Services, Inc., Medley, Florida, and thereby engage in providing data processing and data transmission services, pursuant to section 225.28(b)(14)(ii) of Regulation Y.

B. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. First Community Financial Partners, Inc., Joliet, Illinois; to continue to engage *de novo* in extending credit and servicing loans, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, May 21, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–11746 Filed 5–23–08; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Multiple Award Schedule Advisory Panel; Notification of Public Advisory Panel Meeting

AGENCY: U.S. General Services Administration (GSA).

ACTION: Notice.

SUMMARY: The U.S. General Services Administration (GSA) Multiple Award Schedule Advisory Panel (MAS Panel), a Federal Advisory Committee, will hold a public meeting on Monday, June 16, 2008. GSA utilizes the Schedules program to establish long-term Governmentwide contracts with responsible firms to provide Federal,

State, and local government customers with access to a wide variety of supplies (products) and services.

The MAS Panel will develop advice and recommendations on MAS program pricing policies, provisions, and procedures in the context of current commercial pricing practices. Specifically, the MAS Panel will review the MAS policy statements, implementing regulations, solicitation provisions and other related documents regarding the structure, use, and pricing for the MAS contract awards.

DATE: The MAS Panel meeting will take place on Monday, June 16, 2008 beginning at 9:00 a.m., and it will adjourn no later than 5:00 p.m.

ADDRESS: The meeting will be held at the American Institute of Architects (AIA) Building, 2nd Floor, 1725 New York Avenue, NW., Washington, DC. (The building is located at the corner of 18th Street and New York Avenue.) Entrance to the building is on either 18th Street, or New York Avenue.

Subsequent meeting dates, locations, and times will be published at least 15 days prior to the meeting date.

FOR FURTHER INFORMATION CONTACT: Information on the Panel meetings, agendas, and other information can be obtained at *www.gsa.gov/masadvisorypanel* or you may contact Ms. Pat Brooks, Designated Federal Officer, Multiple Award Schedule Advisory Panel, U.S. General Services Administration, 2011 Crystal Drive, Suite 911, Arlington, VA 22205; telephone 703 605–3406, Fax 703 605–3454; or via email at *mas.advisorypanel@gsa.gov*.

SUPPLEMENTARY INFORMATION: *Oral comments*: Requests to present oral comments at this meeting must be in writing (email or fax) and received by Ms. Brooks at the above address seven (7) business days prior to the meeting date. Each individual or group requesting an oral presentation will be limited to a total time of five minutes. Speakers should bring at least 50 copies of their comments for distribution to the reviewers and public at the meeting.

Written Comments: Written comments must be received seven (7) business days prior to the meeting date so that the comments may be provided to the Panel for their consideration prior to the meeting. Comments should be supplied to Ms. Brooks at the address/contact information noted above in the following format: one hard copy with original signature and one electronic copy via email in Microsoft Word.

AVAILABILITY OF MATERIALS: All meeting materials, including meeting agendas, handouts, public comments, and meeting minutes will be posted on the MAS Panel website at *www.gsa.gov/masadvisorypanel* or *www.gsa.gov/masap*.

MEETING ACCESS: Individuals requiring special accommodations at this meeting should contact Ms. Brooks at least ten (10) business days prior to the meeting so that appropriate arrangements can be made.

Dated: May 20, 2008.

David A. Drabkin,

Acting Chief Acquisition Officer.

[FR Doc. E8–11706 Filed 5–23–08; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Quality Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 18th meeting of the American Health Information Community Quality Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: June 30, 2008, from 1 p.m. to 4 p.m. [Eastern Time].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 1114. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/quality/*.

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on how health information technology can provide the data needed for the development of quality measures that are useful to patients and others in the health care industry, automate the measurement and reporting of a comprehensive current and future set of quality measures, and accelerate the use of clinical decision support that can improve performance on those quality measures.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/quality/quality_instruct.html*.

Dated: May 19, 2008.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–11749 Filed 5–23–08; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Confidentiality, Privacy, & Security Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 20th meeting of the American Health Information Community Confidentiality, Privacy, & Security Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: June 26, 2008, from 1 p.m. to 5 p.m. [Eastern Time].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 1114. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION: *http://www.hhs.gov/healthit/ahic/confidentiality/*.

SUPPLEMENTARY INFORMATION: The Workgroup Members will continue discussing and evaluating the confidentiality, privacy, and security protections and requirements for participants in electronic health information exchange environments.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/cps_instruct.html*.

Dated: May 19, 2008.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–11758 Filed 5–23–08; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Consumer Empowerment Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 27th meeting of the American Health Information Community Consumer Empowerment Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: June 17, 2008, from 1 p.m. to 4 p.m. [Eastern Time].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 1114. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/consumer/.*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on how to encourage the widespread adoption of a personal health record that is easy-to-use, portable, longitudinal, affordable, and consumer-centered.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/consumer/ce_instruct.html.*

Dated: May 19, 2008.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–11762 Filed 5–23–08; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Electronic Health Records Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 24th meeting of the American Health Information Community Electronic Health Records Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: June 18, 2008, from 1 p.m. to 4 p.m. [Eastern Time].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 1114. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/healthrecords/.*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on ways to achieve widespread adoption of certified EHRs, minimizing gaps in adoption among providers.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/healthrecords/ehr_instruct.html.*

Dated: May 19, 2008.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–11764 Filed 5–23–08; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Population Health and Clinical Care Connections Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 27th meeting of the American Health Information Community Population Health and Clinical Care Connections Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: June 25, 2008, from 1 p.m. to 4 p.m. [Eastern Time].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 1114. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/population/.*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on how to facilitate the flow of reliable health information among population health and clinical care systems necessary to protect and improve the public's health. The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/population/pop_instruct.html.*

Dated: May 19, 2008.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–11767 Filed 5–23–08; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Chronic Care Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 26th meeting of the American Health Information Community Chronic Care Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: June 19, 2008, from 1 p.m. to 4 p.m., Eastern Time.

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 1114. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/chroniccare/.*

SUPPLEMENTARY INFORMATION: The workgroup will hear testimony on ways to use information technology to better coordinate care for patients with chronic conditions and will discuss this information in light of opportunities to better facilitate patient care coordination.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/chroniccare/cc_instruct.html.*

Dated: May 19, 2008.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–11770 Filed 5–23–08; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Personalized Healthcare Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 16th meeting of the American Health Information Community Personalized Healthcare Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: June 10, 2008, from 1 p.m. to 4 p.m. [Eastern Time].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 1114. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/healthcare/*.

SUPPLEMENTARY INFORMATION: The Workgroup will discuss possible common data standards to incorporate interoperable, clinically useful genetic/genomic information and analytical tools into Electronic Health Records (EHRs) to support clinical decision-making for the clinician and consumer.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/healthcare/phc_instruct.html*.

Dated: May 19, 2008.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–11773 Filed 5–23–08; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Meeting: Secretary's Advisory Committee on Genetics, Health, and Society

Pursuant to Pub. L. 92–463, notice is hereby given of the sixteenth meeting of the Secretary's Advisory Committee on Genetics, Health, and Society (SACGHS), U.S. Public Health Service. The meeting will be held from 8:30 a.m. to approximately 11:30 a.m. on Monday, July 7, 2008, and 8 a.m. to approximately 5 p.m. on Tuesday, July 8, 2008, at the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. The meeting will be open to the public with attendance limited to space available. The meeting also will be Web cast.

The meeting will involve an exploration of the issues associated with the marketing of personalized genomic information and services directly to consumers. The Committee will hear presentations about these services, including the specificity of information being provided and plans for helping consumers interpret and utilize the results for healthcare decisionmaking, consumer perspectives, the state of the underlying science, and public policy considerations. As part of this exploration, the Committee will adjourn for the afternoon of July 7 to participate in a workshop sponsored by Secretary Leavitt's Personalized Health Care Initiative on Understanding the Needs of Consumers in the Use of Genomic-Based Health Information Services. The Committee also will review a proposed action plan for addressing issues associated with the genetics education and training of health professionals and move into the second stage of its priority setting process.

As always, the Committee welcomes hearing from anyone wishing to provide public comment on any issue related to genetics, health and society. Individuals who would like to provide public comment should notify the SACGHS Executive Secretary, Ms. Sarah Carr, by telephone at 301–496–9838 or e-mail at *carrs@od.nih.gov*. The SACGHS office is located at 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892. Anyone planning to attend the meeting who is in need of special assistance, such as sign language interpretation or other reasonable accommodations, is also asked to contact the Executive Secretary.

Under authority of 42 U.S.C. 217a, section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services established SACGHS to serve as a public forum for deliberations on the broad range of human health and societal issues raised by the development and use of genetic and genomic technologies and, as warranted, to provide advice on these issues. The draft meeting agenda and other information about SACGHS, including information about access to the Web cast, will be available at the following Web site: *http://www4.od.nih.gov/oba/sacghs.htm*.

Dated: May 16, 2008.

Jennifer Spaeth,

Director, NIH Office of Federal Advisory Committee Policy.

[FR Doc. E8–11798 Filed 5–23–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Department of Health and Human Services Implementation of New Authorities for the Public Health Emergency Preparedness Cooperative Agreement

AGENCY: Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Office for Terrorism Preparedness and Emergency Response, Division of State and Local Readiness.

ACTION: Notification of intent to implement: (1) Maintenance of funding (MOF); (2) nonfederal matching requirements; (3) evidence-based benchmarks and objective standards; (4) maximum amount of carryover; (5) pandemic influenza operations plans criteria; (6) audit requirements; and (7) withholding and repayment guidelines. Links to the Interim Progress Report (IPR) for Budget Period 9 (BP9) of the Public Health Emergency Preparedness (PHEP) program are provided for informational purposes only.

SUMMARY: The Department of Health and Human Services (HHS or the Department), Centers for Disease Control and Prevention (CDC), will issue an Interim Progress Report (IPR) for the PHEP cooperative agreement program in the third quarter of Fiscal Year (FY) 2008, as authorized under section 319C–1 of the Public Health Service (PHS) Act, as amended by the Pandemic and All-Hazards Preparedness Act (PAHPA) (Pub. L. 109–417) (42 U.S.C. 247d–3a). The Consolidated Appropriations Act, 2008, (H.R. 2764) provided funding for these awards. This notice provides information to facilitate the critical aspects of the program, including:

- Background of the program;
- Current requirements for awardees:
  - MOF;
- Future requirements of awardees:
  - Nonfederal matching requirements—reduced or no award provided;
  - Evidence-based benchmarks and objective standards—substantial failure results in withholding of funds;

○ Maximum amount of carryover—exceeding the limit results in repayment of funds;

○ Pandemic influenza planning documents—failure to submit a sufficient operations plan results in withholding of funds;

○ Audit requirements—failure results in repayment of funds;

- Electronic submission;
- Important dates;
- Reporting;
- PHEP IPR for BP9 (*http://www.emergency.cdc.gov/*);
- Withholding and Repayment Guidance (Attachment).

FOR FURTHER INFORMATION CONTACT: Donna Knutson at (404) 639–7530, or e-mail at [*dbk2@cdc.gov*].

SUPPLEMENTARY INFORMATION:

Background of the Program

Building on the lessons learned from the attacks of September 11, 2001, and Hurricanes Katrina and Rita in 2005, the PAHPA was enacted in December 2006 to improve the Nation's public health and medical preparedness and response capabilities for emergencies, whether deliberate, accidental, or natural. The PAHPA amended and added new sections to the PHS Act. Examples of these changes include identifying the Secretary of Health and Human Services as the lead official for all Federal public health and medical responses to public health emergencies and other incidents covered by the National Response Framework; establishing the position of the Assistant Secretary for Preparedness and Response (ASPR), who will lead and coordinate HHS preparedness and response activities, advise the Secretary of Health and Human Services during an emergency, and lead the coordination of emergency preparedness and response efforts between HHS and other Federal agencies; consolidating Federal public health and medical response programs under the renamed ASPR; requiring the development and implementation of the National Health Security Strategy; and reauthorizing the PHEP cooperative agreements administered by CDC and the Hospital Preparedness Program (HPP) cooperative agreements administered by ASPR. In addition to reauthorizing these two cooperative agreement programs, the PAHPA added new requirements that awardees must meet. The purpose of this notice is to notify PHEP awardees about critical aspects and requirements of the PHEP cooperative agreements, as amended by PAHPA. The Secretary of Health and Human Services is required under section 319C–1(g) of the PHS Act to develop and require application of measurable benchmarks and objective standards that measure levels of preparedness with respect to PHEP activities. The Secretary of Health and Human Services must withhold funds beginning in FY 2009 from PHEP awardees who fail substantially to meet the applicable benchmarks or objective standards for the immediately preceding fiscal year and/or who fail to submit a sufficient pandemic influenza operations plan. Thus, PHEP awardees will have funds withheld from their FY 2009 awards (as described in the attached withholding guidance) if, when expending their FY 2008 PHEP awards, they fail substantially to meet the benchmarks and objective standards described in the FY 2008 (BP9) IPR or to submit a sufficient pandemic influenza operations plan. The Secretary of Health and Human Services is required to develop and implement a process to notify entities who have failed substantially to meet the evidence-based benchmarks and objective standards or who have failed to submit a sufficient pandemic influenza operations plan. The process must provide awardees with the opportunity to correct their noncompliance.

Purpose: The purpose of the PHEP cooperative agreement program is to provide funding to improve and upgrade state and local public health jurisdictions' preparedness and response to bioterrorism, outbreaks of infectious diseases, and other public health threats and emergencies, utilizing the following goals:

1. Integration—integrating public health and public and private medical capabilities with other first responder systems including through—

i. The periodic evaluation of Federal, State, local, and tribal preparedness and response capabilities through drills and exercises; and

ii. The integration of public and private sector public health and medical donations and volunteers.

2. Public health—developing and sustaining Federal, State, local, and tribal essential public health security capabilities, including the following—

i. Disease situational awareness domestically and abroad, including detection, identification, and investigation.

ii. Disease containment including capabilities for isolation, quarantine, social distancing, and decontamination.

iii. Risk communication and public preparedness.

iv. Rapid distribution and administration of medical countermeasures.

3. Medical—increasing the preparedness, response capabilities, and surge capacity of hospitals, other healthcare facilities (including mental health facilities), and trauma care and emergency medical service systems, with respect to public health emergencies, which shall include developing plans for the following—

i. Strengthening public health emergency medical management and treatment capabilities.

ii. Medical evacuation and fatality management.

iii. Rapid distribution and administration of medical countermeasures.

iv. Effective utilization of any available public and private mobile medical assets and integration of other Federal assets.

v. Protecting healthcare workers and healthcare first responders from workplace exposures during a public health emergency.

4. At-risk individuals—

i. Taking into account the public health and medical needs of at-risk individuals in the event of a public health emergency.

ii. For purposes of these awards, the term ''at-risk individuals'' means children, pregnant women, senior citizens, and other individuals who have special needs in the event of a public health emergency, as determined by the Secretary of Health and Human Services (see the IPR for BP9 for updated definition).

5. Coordination—minimizing duplication of, and ensuring coordination between, Federal, State, local, and tribal planning, preparedness, and response activities (including Emergency Management Assistance Compact). Such planning shall be consistent with the National Response Framework, or any successor plan, and National Incident Management Systems and the National Preparedness Goal.

6. Continuity of operations—maintaining vital public health and medical services to allow for optimal Federal, State, local, and tribal operations in the event of a public health emergency.

Eligibility: Since the funding opportunity represents the fourth year of a five-year cooperative agreement, eligibility is limited to those currently funded through PHEP Program Announcement AA154 and authorized under 42 U.S.C. 247d–3a. Eligible applicants are the health departments of States or their bona fide agents, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American

Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and the official public health agencies of New York City, New York; Los Angeles County, California; and Chicago, Illinois.

Current Requirements of Awardees

Maintenance of Funding (MOF)

MOF is defined as ensuring that the amount contributed by the entity that receives the award to support public health security does not fall below the average of the amount provided annually during the previous two years. This definition includes:

1. Appropriations specifically designed to support public health emergency preparedness as expended by the entity receiving the award; and

2. Funds not specifically allocated for public health emergency preparedness activities but which support public health emergency preparedness activities, such as personnel assigned to public health emergency preparedness responsibilities or supplies or equipment purchased for public health emergency preparedness from general funds or other lines within the operating budget of the entity receiving the award.

The definition of expenditures does not include one-time expenses to support public health preparedness and response, such as purchases of antiviral drugs. Awardees will be required to document the required MOF as part of the IPR for BP9. According to Public Law 109–417, any funds withheld from the PHEP cooperative agreement program or the Hospital Preparedness Program will be reallocated to the Healthcare Facilities Partnership program in the same state.

Future Awardee Requirements

Matching Requirements

PHEP cooperative agreement funding must be matched by nonfederal contributions beginning with the distribution of federal FY 2009 funds (Budget Period 10). Nonfederal contributions (match) may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the federal government, or services assisted or subsidized to any significant extent by the federal government, may not be included in determining the amount of such nonfederal contributions. Awardees will be required to provide matching funds as described:

i. For FY 2009, not less than 5% of such costs ($1 for each $20 of federal funds provided in the cooperative agreement); and

ii. For any subsequent fiscal year of such cooperative agreement, not less than 10% of such costs ($1 for each $10 of federal funds provided in the cooperative agreement).

Please refer to 45 CFR 92.24 for match requirements, including descriptions of acceptable match resources. Documentation of match must follow procedures for generally accepted accounting practices and meet audit requirements. Beginning with federal FY 2009, the Secretary of Health and Human Services may not make an award to an entity eligible for PHEP funds unless the eligible entity agrees to make available nonfederal contributions as described above. CDC will require each eligible entity to include in its FY 2008 (BP9) mid-year progress report a plan describing the methods and sources of match that the eligible entity agrees to pursue in FY 2009.

Evidence-Based Benchmarks and Objective Standards

In accordance with section 319C–1(g)(1), CDC has established the following evidence-based benchmarks and objective standards. Substantial failure to meet these benchmarks and standards will result in withholding of funds for the FY 2009 budget year (BP10). The following benchmarks and standards also appear in the PHEP IPR for BP9:

1. *Demonstrated capability to notify primary, secondary, and tertiary staff to cover all incident management functional roles during a complex incident.*

To provide an effective and coordinated response to a complex incident, a public health department must maintain a current roster of pre-identified staff available to fill core Incident Command System (ICS) functional roles. During an incident that lasts more than 12 hours, secondary and tertiary staff may be called upon to fill ICS roles, and thus the health department must maintain a roster of all staff qualified for those roles. Testing the staff notification system is critical for an efficient response, especially when the notification is unannounced and occurs outside of regular business hours.

a. Confirm the accuracy of the primary, secondary, and tertiary contact information for all eight ICS functional roles at least once every six months.

b. Test the notification system twice a year, with at least one test being unannounced and occurring outside of regular hours. The test can be a drill or an exercise, or it may be demonstrated by a response to a real incident.

Guidance on the numerator, denominator, and scoring methodology to determine how results will factor in to a withholding penalty for this measure will be available by May 15, 2008.

2. *Demonstrated capability to receive, stage, store, distribute, and dispense material during a public health emergency.*

Health departments must be able to provide countermeasures to 100% of their identified population within 48 hours after the decision to do so. To be able to achieve this standard, health departments must maintain the capability to plan and execute the receipt, staging, storage, distribution, and dispensing of material during a public health emergency.

a. Obtain a score of 69 or higher on the Division of Strategic National Stockpile (DSNS) State Technical Assistance Review by December 31, 2008.

b. Each planning/local jurisdiction within each Cities Readiness Initiative (CRI) metropolitan statistical area conducts a minimum of three DSNS drills by August 10, 2009.

c. To comply with the PAHPA legislation and for purposes of guiding funding decisions for 2009, the planning/local jurisdiction(s) that comprises the 25% most populous within a CRI MSA conducts at least one of the three DSNS drills prior to December 31, 2008 (with the remaining two drills conducted by August 10, 2009).

These drills may include any three of the following: staff call down, site activation, facility set-up, pick-list generation, dispensing, and/or modeling of throughput. Guidance on the numerator, denominator, and scoring methodology to determine how results will factor in to a withholding penalty for this measure will be available by May 15, 2008.

Maximum Amount of Carryover

CDC shall determine the maximum percentage amount of an award that an awardee may carry over to the succeeding fiscal year. Unjustifiable unobligated balances will be determined by using the awardee's spend plan and financial status and progress/performance reports. (See the Withholding and Repayment Guidance for additional information).

To provide effective program management, an awardee must be able to develop and execute spend plans, make procurements and let contracts on schedule, and otherwise assure the

infrastructure capacity to support the attainment of programmatic objectives. One outcome of an effective management infrastructure is the full expenditure of funds awarded in the budget period.

CDC recognizes that there may be justifiable causes (e.g., state hiring freezes, inefficiencies on the part of the awarding agency) or unjustifiable causes (e.g., ineffective management infrastructure at the state level, irregularities in contracting or payment of debt) for dollars to remain unobligated at the end of the budget period even after a robust execution of plans. Therefore, the awardee must immediately communicate with CDC any events occurring between the scheduled spend plan and progress/performance report date which have significant impact upon the cooperative agreement.

CDC will make available by May 15, 2008, additional guidance regarding spend plan and progress/performance reports to determine how results will factor into a repayment penalty for this measure.

Pandemic Influenza Plans

State pandemic influenza operations plans must meet national standards. On June 16, 2008, awardees will submit a second version of their pandemic influenza operations plans based on guidance provided by HHS on March 13, 2008. Two scores (Comprehensiveness and Operational Readiness) for each of the seven elements in the ''Health and Medical'' category will be used by CDC to determine the extent to which criteria have been met, as follows:

Comprehensiveness Score:
- No Major Gaps
- A Few Major Gaps
- Many Major Gaps
- Inadequate Preparedness

Operational Readiness Score:
- Substantial Evidence of Operational Readiness
- Significant Evidence of Operational Readiness
- Little Evidence of Operational Readiness

Failure to meet accepted criteria for pandemic influenza operations planning will result in the withholding of funds for the FY 2009 budget period. Guidance on the numerator, denominator, and scoring methodology for this measure will be available by May 15, 2008.

Audit Requirements

Each entity receiving funds shall, not less than once every two years, audit its expenditures from amounts received from the PHEP cooperative agreement. Such audits shall be conducted by an entity independent of the agency administering the PHEP cooperative agreement in accordance with Office of Management and Budget (OMB) Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations.

Audit reports must be submitted to CDC. Failure to conduct an audit or expenditures made not in accordance with PHEP cooperative agreement guidance and grants management policy may result in a requirement to repay funds to the Federal treasury or the withholding of future funds.

Electronic Submission

Given the technical capabilities necessary to carry out and document the activities required under this program, HHS is announcing the funding opportunity on the grants.gov Web site at *http://www.grants.gov*. Detailed instructions for submitting the combined IPR and application for funding will be available through a download in the Preparedness Emergency Response System for Oversight, Reporting, and Management Services (PERFORMS) at *https://sdn/cdc/gov*.

Important PHEP Dates

- Anticipated application due date: June 27, 2008.
- Anticipated award date: August 11, 2008.

Reporting

Please refer to the PHEP IPR for actual reporting dates and requirements.

Withholding and Repayment Guidance

The Withholding and Repayment Guidance is provided in its entirety for review as an attachment. (See attachment below.)

Dated: May 20, 2008.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention, Department of Health and Human Services.

Attachment

CDC Public Health Emergency Preparedness Cooperative Agreement Withholding and Repayment Guidance

Procedural Consideration

This standard operating procedure (SOP) describes procedures CDC will use to implement withholding or repayment actions in connection with the Public Health Emergency Preparedness (PHEP) cooperative agreement program.

A. Pandemic and All-Hazards Preparedness Act (PAHPA) requirements for the PHEP Cooperative Agreement. The PAHPA requires the withholding of amounts from entities that fail to achieve benchmarks and objective standards or to submit an acceptable pandemic influenza operations plan, beginning with Fiscal Year 2009 and in each succeeding fiscal year:

Benchmarks and Statewide Pandemic Influenza Operations Plan

(1) Enforcement Condition: Awardees substantially fail to meet evidence-based benchmarks and objective standards and/or fail to prepare and submit an acceptable pandemic influenza operations plan.

Please note 319C–1(g)(6)(B) Separate Accounting: Each failure described under A(1) shall be treated as a separate failure for purposes of calculating amounts withheld under A(2). For example, a failure to achieve applicable benchmarks as a whole will count as one failure and a failure to submit a pandemic influenza operations plan will count as a second failure.

(2) Enforcement Action:
- Withhold funds—Fiscal Year 2008 is for the purpose of evaluation to determine the amount to be withheld from the year immediately following year of failure. Additionally, each failure is to be treated as a separate failure for the purposes of the penalties described below:
- Initial failure—withholding in an amount equal to 10% of funding per failure.
- Two consecutive years of failure—withholding in an amount equal to 15% of funding per failure.
- Three consecutive years of failure—withholding in an amount equal to 20% of funding per failure.
- Four consecutive years of failure—withholding in an amount equal to 25% of funding per failure.
- Reallocation of amount withheld—According to Pub. L. 109–417, any funds withheld from the PHEP or the Hospital Preparedness Program will be reallocated to the Healthcare Facilities Partnership program in the same state.
- Preference in reallocation—According to Pub. L. 109–417, any funds withheld from the PHEP or the Hospital Preparedness Program will be reallocated to the Healthcare Facilities Partnership program in the same state.

Waive or Reduce: The Secretary of Health and Human Services may waive or reduce the withholding as described above for a single entity or for all entities in a fiscal year, if the Secretary determines that mitigating conditions

exist that justify the waiver or reduction.

Audit Implementation

(1) Enforcement Condition: Awardees who fail to submit the required audit or spend amounts in noncompliance.

(2) Enforcement Action: Grants Management Officer disallows costs and requests payment via standard audit disallowance process or temporarily withholds funds pending corrective action.

Adjudication: Enforcement will be in accordance with 45 Code of Federal Regulation (CFR), part 16.

Carryover

(1) Enforcement Condition: For each fiscal year, the percentage amount of an award unexpended by an awardee exceeds the maximum percentage permitted by the Secretary.

(2) Enforcement Action: Awardees shall return to the Secretary the portion of the unexpended amount that exceeds the maximum permitted to be carried over. According to Public Law 109–417, any funds withheld from the PHEP or the Hospital Preparedness Program will be reallocated to the Healthcare Facilities Partnership program in the same state.

Waive or Reduce: The awardee may request a waiver of the maximum percentage amount or the Secretary may waive or reduce the withholding as described above for a single entity or for all entities in a fiscal year, if the Secretary determines that mitigating conditions exist that justify the waiver or reduction. The Secretary will make a decision after reviewing the awardee's request for waiver.

The Department of Health and Human Services (HHS) permits grantees to appeal to the Departmental Appeal Board (DAB) certain post-award adverse administrative decisions made by HHS officials (see 45 CFR part 16). CDC has established a first-level grant appeal procedure that must be exhausted before an appeal may be filed with the DAB (see 42 CFR part 50.404). CDC will assume jurisdiction for any of the above adverse determinations.

[FR Doc. E8–11718 Filed 5–23–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0298]

Reportable Food Registry as Required by the Food and Drug Administration Amendments Act of 2007; Announcement of Delay in Implementation and Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; delay in implementation and request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a delay in the implementation of the Reportable Food Registry (the Registry) of the Food and Drug Administration Amendments Act of 2007 (FDAAA). FDA intends to implement the FDAAA requirement to establish an electronic portal for reportable food by utilizing the business enterprise system currently under development by the agency. This system will be easy to use and the most efficient and cost effective for both users and the agency. FDA expects that the agency's business enterprise system will be operational in spring 2009. FDA acknowledges that the prohibited act provisions relating to the Registry will not apply until such time as FDA establishes the electronic portal to implement the Registry. In conjunction with this delay announcement, FDA is requesting comments on certain aspects of the Registry provisions.

DATES: Submit written or electronic comments by August 11, 2008.

ADDRESSES: Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Faye Feldstein, Center for Food Safety and Applied Nutrition (HFS–005), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2428.

SUPPLEMENTARY INFORMATION:

I. Background

On September 27, 2007, the President signed FDAAA into law (Public Law 110–85). Section 1005 of FDAAA amends the Federal Food, Drug, and Cosmetic Act (the act) by creating a new section 417 (21 U.S.C. 350f). Section 417 of the act requires the Secretary of Health and Human Services (the Secretary) to establish within FDA a Reportable Food Registry (the Registry); the Registry is to be established not later than 1 year after the date of enactment (i.e., by September 27, 2008). The Congressionally-identified purpose of the Registry is to provide a ''reliable mechanism to track patterns of adulteration in food [which] would support efforts by the Food and Drug Administration to target limited inspection resources to protect the public health'' (121 Stat. 965). The Secretary has delegated to the Commissioner of Food and Drugs the responsibility for administering the act, including section 417 of the act.

To further the development of the Registry, section 417 of the act requires FDA to establish, also within 1 year after the date of enactment (i.e., by September 27, 2008), an electronic portal (the Reportable Food electronic portal) by which instances of reportable food may be submitted to FDA by responsible parties or public health officials.

Section 417(a)(1) of the act defines ''responsible party'' as a person that submits the registration under section 415(a) of the act (21 U.S.C. 350d) for a food facility that is required to register under section 415(a), at which such article of food is manufactured, processed, packed, or held. Persons who are authorized to submit a facility registration under section 415 of the act are the owner, operator, or agent in charge of a domestic or foreign facility engaged in manufacturing, processing, packing, or holding food for consumption in the United States. Section 417(a)(2) of the act defines a ''reportable food'' as an article of food (other than infant formula) for which there is a reasonable probability that the use of, or exposure to, such article of food will cause serious adverse health consequences or death to humans or animals.

Under section 417(d) of the act, a responsible party is required to submit a report to FDA through the Reportable Food electronic portal as soon as practicable, but in no case later than 24 hours after the responsible party determines that an article of food is a reportable food. Federal, State, and local public health officials may voluntarily submit such reports to FDA through the electronic portal under section 417(d)(3) of the act. Section 417(e) of the act specifies 11 data elements that are required in the initial report or in a subsequent report to FDA; such reports are to be submitted via the Reportable Food electronic portal. Examples of required data elements include the following: (1) The registration numbers

of the responsible party provided under section 415(a)(3) of the act; (2) the date on which the article of food was determined to be a reportable food; and (3) a description of the article of food including the quantity or amount.

Section 417(b)(2) of the act requires FDA to review promptly and assess information submitted via the electronic portal. Section 417(c)(1) requires FDA to issue, or cause to be issued, an alert or notification with respect to a reportable food using the information from the Registry as FDA deems necessary to protect the public health. In addition, following submission of a report via the Reportable Food electronic portal and after consultation with the responsible party that submitted a report, FDA may require the responsible party to provide a notification consistent with section 417(d)(6)(B) of the act. Section 1005(e) of FDAAA provides that the requirements of section 417(d) of the act are effective 1 year after the enactment date (i.e., on September 27, 2008). The failure to submit a report or provide a notification required by section 417(d) of the act is a prohibited act under section 301(mm) of the act (21 U.S.C. 331(mm)); persons who commit a prohibited act may be enjoined (21 U.S.C. 332) or prosecuted criminally (21 U.S.C. 333).

Under section 1005(f) of FDAAA, FDA is required to issue a guidance to industry about submitting reports to the electronic portal established under section 417(b)(1) of the act and providing notifications to other persons in the supply chain of an article of food. This guidance is required to be issued not later than 9 months after the date of enactment of FDAAA (i.e., by June 27, 2008).

II. Delay in Implementation of the Registry

FDA has determined that the most efficient and cost effective means of implementing the requirements of section 417 of the act relating to the Registry is to utilize the business enterprise system currently under development within the agency. This system will permit FDA to establish an electronic portal through which instances of reportable food may be submitted to the agency, and will be easy to use, for both those submitting reports to the agency and for FDA. However, the agency anticipates that FDA's business enterprise system will not be implemented in time to meet the statutory deadline of section 417(b)(1) of the act which, as stated, requires FDA to establish the Reportable Food electronic portal by September 27, 2008. Therefore, FDA is announcing a delay in the implementation of the requirements of section 417 of the act.

FDA expects that the agency's business enterprise system will be operational in spring 2009. In a future issue of the **Federal Register**, the agency will notify the public, including the industry, of the date the Reportable Food electronic portal becomes available to accept reports under section 417(d) of the act. After that date, FDA expects that responsible parties will comply with the requirements of section 417 of the act, including the requirement to submit instances of reportable food to the agency via the Reportable Food electronic portal. In the interim, FDA strongly encourages persons to continue to report instances of adulterated food through existing mechanisms, such as notifying the relevant FDA District office, until such time as the Registry and its associated electronic portal are fully implemented.

III. Request for Comments

FDA is seeking comments on the requirements contained in the Registry provisions of section 417 of the act. In addition to general information, data, and comments, we request comments on the following questions:

(1) What obstacles, if any, do responsible parties anticipate in complying with the requirements of section 417 of the act?

(2) How can FDA enhance the quality, utility, and clarity of the information to be submitted to the Registry?

(3) What would be an efficient and effective method for providing and receiving notifications to and from sources and recipients in the supply chain of instances of reportable food?

(4) In addition to the data elements set out in section 417 of the act, what other information, if any, would be important to provide in responsible party notifications to the immediate previous source and immediate subsequent recipient of the article of food?

IV. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Please note that on January 15, 2008, the FDA Division of Dockets Management Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic comments or submissions will be accepted by FDA only through FDMS at *http://www.regulations.gov*.

Dated: May 16, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–11517 Filed 5–23–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 73 FR 22961–22964 dated April 28, 2008).

This notice reflects organizational changes in the Health Resources and Services Administration. Specifically, this notice updates the functional statement for the Office of Information Technology (RAG).

Chapter RA—Office of the Administrator

Section RA–10, Organization

The Office of the Administrator (RA) is headed by the Administrator, Health Resources and Services Administration, who reports directly to the Secretary. The OA includes the following components:

(1) Immediate Office of the Administrator (RA);

(2) Office of Equal Opportunity and Civil Rights (RA2);

(3) Office of Planning and Evaluation (RA5);

(4) Office of Communications (RA6);

(5) Office of Minority Health and Health Disparities (RA9);

(6) Office of Legislation (RAE);

(7) Office of Information Technology (RAG);

(8) Office of International Health Affairs (RAH); and

(9) Office of Management (RAM).

Section RAG–20, Functions

Delete the current functional statement for the Office of Information

Technology (RAG) in its entirety and replace with the following:

Office of Information Technology (RAG)

The Chief Information Officer (CIO) is responsible for the organization, management, and administrative functions necessary to carry out the responsibilities of the CIO including: organizational development, investment control, budget formulation and execution, policy development, strategic and tactical planning, and performance monitoring. The CIO provides leadership in the development, review and implementation of policies and procedures to promote improved information technology management capabilities and best practices throughout HRSA. The OCIO coordinates IT workforce issues and works closely with the departmental Office of Human Resources Management on IT recruitment and training issues.

The Chief Technology Officer (CTO), reporting to the CIO, is responsible for the HRSA emerging and advanced technology integration program consistent with HRSA missions and program objectives. The CTO manages technology planning and is responsible for coordinating the Agency's Enterprise Architecture (EA) efforts with the capital planning process, ensuring the suitability and consistency of technology investments with HRSA's EA and strategic objectives, and incorporating security standards as a component of the EA process. The CTO provides leadership for strategic planning that leverages information systems security, program strategies, and advanced technology integration to achieve program objectives through innovative technology use. The CTO also provides leadership and establishes policy to address legislative or regulatory requirements, such as Section 508 of the Rehabilitation Act, and provides oversight for Agency IT configuration management and control.

The Chief Information Security Officer (CISO), reporting to the CIO, provides leadership for, and collaborates with, Agency staff to oversee the implementation of security and privacy policy in the management of their IT systems, and plans all activities associated with the Federal Information Security Management Act (FISMA) or other agency security and privacy initiatives.

The CISO implements, coordinates, and administers security and privacy programs to protect the information resources of HRSA in compliance with legislation, Executive Orders, directives of the Office of Management and Budget (OMB), or other mandated requirements e.g., Presidential Decision Directive 63, OMB Circular A–130, the National Security Agency, the Privacy Act, and other Federal agencies. Further, the CISO is responsible for the execution of the Agency's Risk Management Program, and evaluates and assists with the implementation of safeguards to protect major information systems, and IT infrastructure. In close coordination with the Division of IT Operations and Customer Service, develops and implements HRSA level policies, procedures, guidelines, and standards for the incorporation of intrusion detection systems, vulnerability scanning, forensic and other security tools used to monitor automated systems and subsystems to safeguard HRSA's electronic information and data assets. The CISO manages the development, implementation, and evaluation of the HRSA information technology security and privacy training program to meet the requirements as mandated by OMB Circular A–130, the Computer Security Act, and Privacy Act.

Division of Business Information Management (RAG1)

The Division of Business Information Management (DBIM), provides consultation, assistance, and services to HRSA to promote and manage information dissemination and collaboration practices using appropriate electronic media. DBIM evaluates and integrates emerging technology to facilitate the translation of data and information from data repositories into electronic formats for internal and external dissemination. In collaboration with the Office of Communications, DBIM is responsible for the design, deployment, and maintenance of HRSA's Internet and Intranet Web sites including development and implementation of related policies and procedures. DBIM develops and maintains an overall data and information management strategy for HRSA that is integrated with HHS and Government-wide strategies. DBIM identifies information needs across HRSA and develops approaches for meeting those needs using appropriate technologies including development and maintenance of an enterprise reporting platform. DBIM provides for data quality and ensures that data required for enterprise information requirements are captured in appropriate enterprise applications and that necessary data repositories are built and maintained. DBIM enhances and expands use and utility of HRSA's data by providing basic analytic and user support; develops and maintains a range of information products for internal and external users; and demonstrates potential uses of information in supporting management decisions. DBIM provides leadership and establishes policy to address legislative or regulatory requirements in its areas of responsibility.

Division of Capital Planning and Project Management (RAG2)

The Division of Capital Planning and Project Management (DCPPM) coordinates the development and review of policies and procedures for IT Capital Planning and Investment Control, Earned Value Management, IT portfolio management, IT project management, and the enterprise performance lifecycle methodology. DCPPM administers the Department's multi-year strategic information resources planning process, including developing and administering the Department's Strategic IT Plan; supports the Budget Office in its evaluation of IT initiatives, and preparation of Agency, departmental and OMB Budget Exhibits and documents. DCPPM works to obtain required information and analyzes it as appropriate; coordinates control and evaluation review of ongoing IT projects, including support to the HRSA ITIRB in conducting such review; promotes and follows a consistent methodology for project management and improves agency-wide project management. DCPPM operates a Project Management Office to improve management, communications and functional user involvement, assists with project prioritization, and monitors progress and budget.

Division of Enterprise Solutions Development and Management (RAG3)

The Division of Enterprise Solutions Development and Management (DESDM) provides leadership, consultation, and IT project management services in the definition of Agency business applications architectures, the engineering of business processes, the building and deployment of applications, and the development, maintenance and management of enterprise systems and data collections efforts. DESDM is responsible for technology evaluation, application and data architecture definition, controlling software configuration management, data modeling, database design, development and management and stewardship services for business process owners. DESDM manages the systems development lifecycle by facilitating business process engineering efforts, systems requirements definition, and

provides oversight for application change management control. DESDM provides enterprise application user training, Tier-3 assistance, and is responsible for end-to-end application building, deployment, maintenance and data security assurance.

Division of IT Operations and Customer Services (RAG4)

The Division of IT Operations and Customer Services (ITOCS) provides leadership, consultation, training, and management services for HRSA's enterprise computing environment. ITOCS directs and manages the support and acquisition of HRSA network and desktop hardware, servers, wireless communication devices, and software licenses. ITOCS is responsible for the HRSA Data Center and the operation and maintenance of a complex, high-availability network infrastructure on which mission-critical applications are made available 24 hours per day, 7 days per week. ITOCS provides oversight for outsourced electronic mail, Internet and connectivity, web and video conferencing, and co-managed firewall and security monitoring services. ITOCS controls infrastructure configuration management, installations and upgrades, security perimeter protection, and system resource access. ITOCS coordinates IT activities for Continuity of Operations Planning (COOP) Agency-wide including provisioning and maintaining IT infrastructure and hardware at designated COOP locations to support emergency and COOP requirements. ITOCS is accountable for property life cycle management and tracking of Agency-wide IT capital equipment. ITOCS provides oversight for outsourced Tier-1 and Tier-2 Help Desk Call Center technical assistance; maintains workstation hardware and software configuration management controls; and provides oversight of outsourced network and desktop services to staff in HRSA Regional Offices (ROs).

Section RA–30, Delegations of Authority

All delegations and re-delegations of authority made to HRSA officials and employees of affected organizational components will continue in them or their successors pending further re-delegations, provided they are consistent with this reorganization.

This reorganization is effective upon the date of signature.

Dated: May 15, 2008.

Elizabeth M. Duke,

Administrator.

[FR Doc. E8–11800 Filed 5–23–08; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

C4′-Substituted-2-Deoxyadenosine Analogs and Methods of Treating HIV

Description of Technology: The invention describes a new use for C4′-methyl-2-deoxyadenosine, a nucleoside analog that has significant activity against HIV–1 and most strains of HIV previously shown to be resistant to other reverse transcriptase nucleoside inhibitor treatments. In vitro experimental results show substantial anti-HIV activity (blocked infectivity) with no observable cytotoxicity in cell culture. Mechanistic studies indicate that this compound blocks DNA synthesis by reverse transcriptase.

Applications: Treatment and prevention of HIV infection.

Advantages: Nucleoside analog against HIV–1 reverse transcriptase with no observable cytotoxicity in cell culture.

Potential new treatment for HIV–1 infections including infections by strains of HIV–1 that are resistant to nucleoside reverse transcriptase inhibitors.

Development Status: In vitro data can be provided upon request.

Market: Therapeutic for the treatment and/or prevention of HIV infection.

Inventors: Bao-Han Christie Vu, Stephen H. Hughes, Maqbool Siddiqui, and Victor E. Marquez (NCI).

Publication: Meeting Abstract: 8th Annual Symposium for Antiviral Resistance in Richmond, VA, November 11–14, 2007 (Can be provided upon request).

Patent Status: U.S. Provisional Application No. 61/002,711 filed 09 Nov 2007 (HHS Reference No. E–012–2008/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Sally Hu, Ph.D.; 301–435–5606, *HuS@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute HIV Drug Resistance Program is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize C4′-methyl- and C4′-ethyl-substituted-2-deoxyadenosine analogs. Please contact John D. Hewes, PhD at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Method of Treating Infectious and Inflammatory Lung Disease With Suppressive Oligonucleotides

Description of Technology: Lung disease is the number three killer in America, responsible for one in seven deaths, and lung disease and other breathing problems are the number one killer of babies younger than one year old. Today, more than thirty (30) million Americans are living with chronic inflammatory lung diseases such as emphysema and chronic bronchitis. In addition, approximately one hundred and fifty thousand (150,000) Americans are affected by acute respiratory distress syndrome (ARDS) each year.

Many lung diseases are associated with lung inflammation. For example, ARDS involves the rapid onset of progressive malfunction of the lungs, and is usually associated with the malfunction of other organs due to the inability to take up oxygen. The condition is associated with extensive lung inflammation and small blood vessel injury in all affected organs. ARDS is commonly precipitated by trauma, sepsis (systemic infection), diffuse pneumonia, and shock. It also may be associated with extensive surgery, and certain blood abnormalities. In many cases of ARDS and other inflammatory lung diseases, the inflammatory response that accompanies the underlying disease state is much more dangerous than the underlying infection or trauma.

This application claims use of suppressive oligonucleotides to suppress lung inflammation. More specifically, the application claims use of suppressive oligonucleotides for the treatment, prevention, or inhibition of pneumonia, ARDS, and chronic bronchitis.

Applications: Vaccine adjuvants, production of vaccines, immunotherapeutics.

Development Status: Preclinical studies have been performed; oligonucleotides have been synthesized.

Inventors: Dennis Klinman (FDA/CBER; NCI) and Hiroshi Yamada (CBER/FDA).

Patent Status: U.S. Provisional Application No. 60/417,263 filed 08 Oct 2002 (HHS Reference Number E–183–2002/0–US–01); U.S. Patent Application No. 10/682,130 filed 07 Oct 2003 (HHS Reference Number E–183–2002/0–US–02).

Licensing Status: Available for exclusive or nonexclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301–435–4646; *soukasp@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute, Laboratory of Experimental Immunology, Immune Modulation Group, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Method of Treating and Preventing Infections in Immunocompromised Subjects With Immunostimulatory CpG Oligonucleotides

Description of Technology: Primary disorders of the immune system can be divided into four categories, (1) disorders of the humoral immunity, (2) disorders of cellular immunity, (3) disorders of phagocytes, and (4) disorders of complement. In addition, there are many causes of secondary immunodeficiency such as treatment with immunosuppressive or chemotherapeutic agents, protein-losing enteropathy, and infection with a human immunodeficiency virus (HIV). Generally, immunocompromised patients are unable to mount an immune response to a vaccine or an infection in the same manner as non-immunocompromised individuals.

Opportunistic infections to which individuals infected with HIV are susceptible include bacterial infections such as salmonellosis, syphilis and neurosyphilis, tuberculosis (TB), a typical mycobacterial infection, and bacillary angiomatosis (cat scratch disease), fungal infections such as aspergillosis, candidiasis (thrush, yeast infection), coccidioidomycosis, cryptococcal meningitis, and histoplasmosis, protozoal infections such as cryptosporidiosis, isosporiasis, microsporidiosis, Pneumocystis Carinii pneumonia (PCP), and toxoplasmosis, viral infections such as Cytomegalovirus (CMV), hepatitis, herpes simplex (HSV, genital herpes), herpes zoster (HZV, shingles), human papilloma virus (HPV, genital warts, cervical cancer), Molluscum Contagiosum, oral hairy leukoplakia (OHL), and progressive multifocal leukoencephalopathy (PML), and neoplasms such as Kaposi's sarcoma, systemic non-Hodgkin's lymphoma (NHL), and primary CNS lymphoma, among others. These opportunistic infections remain principally responsible for the morbidity and mortality associated with HIV disease.

This application claims use of immunostimulatory D-type CpG oligonucleotides for the treatment of immunocompromised individuals. More specifically, the application claims use of immunostimulatory D-type CpG oligonucleotides for the treatment of individuals infected with HIV.

Application: Vaccine adjuvants, production of vaccines, immunotherapeutics.

Development Status: Preclinical studies have been performed; oligonucleotides have been synthesized.

Inventors: Dennis Klinman (FDA/CBER; NCI) and Daniela Verthelyi (FDA/CBER).

Patent Status: U.S. Provisional Application No. 60/411,944 filed 18 Sep 2002 (HHS Reference No. E–153–2002/0–US–01); U.S. Patent Application No. 10/666,022 filed 17 Sep 2003 (HHS Reference No. E–153–2002/0–US–03).

Licensing Status: Available for exclusive or nonexclusive licensing.

Licensing Contact: Peter A. Soukas, J.D.; 301–435–4646; *soukasp@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute, Laboratory of Experimental Immunology, Immune Modulation Group, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact John D. Hewes, PhD at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Dated: May 15, 2008.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E8–11698 Filed 5–23–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Meeting; Chairpersons, Boards of Scientific Counselors for Institutes/Centers at the NIH

Notice is hereby given of a meeting scheduled by the Deputy Director for Intramural Research at the National Institutes of Health (NIH) with the Chairpersons of the Boards of Scientific Counselors. The Boards of Scientific Counselors are advisory groups to the Scientific Directors of the Intramural Research Programs at the NIH. This meeting will take place on June 30, 2008, from 10 a.m. to 3 p.m., at the NIH, 1 Center Drive, Bethesda, MD, Building 1, Wilson Hall. The meeting will include a discussion of policies and procedures that apply to the regular review of NIH intramural scientists and their work, with special emphasis on clinical research.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Colleen Crone at the Office of Intramural Research, NIH, Building 1, Room 160, Telephone (301) 496–1921 or FAX (301) 402–4273 in advance of the meeting.

Dated: April 30, 2008.

Raynard S. Kington,

Deputy Director, NIH.

[FR Doc. E8–11715 Filed 5–23–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Notice is hereby given of a meeting of the Services Subcommittee of the Interagency Autism Coordinating Committee (IACC).

The purpose of the Services Subcommittee is to review the current state of services and supports for individuals with Autism Spectrum

Disorder (ASD) and their families in order to improve these services. The Subcommittee meeting will be closed to the public with attendance limited to IACC members. The Subcommittee will report on its meeting at the next meeting of the IACC on July 15, 2008.

Name of Committee: Interagency Autism Coordinating Committee (IACC).

Type of meeting: Services Subcommittee.

Date: June 13, 2008.

Time: 9:30 a.m. to 3 p.m.

Agenda: Review the current state of services and supports for individuals with ASD and their families.

Place: Autism Society of America, 7910 Woodmont Avenue, Suite 300, Bethesda, MD 20814–3067.

Contact Person: Tanya Pryor, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6198, Bethesda, MD 20892–9669, 301–443–7153, *pryort@mail.nih.gov*.

Information about the IACC is available on the Web site: *http://www.nimh.nih.gov/research-funding/scientific-meetings/recurring-meetings/iacc/index.shtml*.

Dated: May 15, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–11713 Filed 5–23–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Discovery and Development.

Date: June 4–5, 2008.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Peter J. Wirth, PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8131, Bethesda, MD 20892–8328, 301–496–7565. *pw2q@nih.gov*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Cancer Institute Special Emphasis Panel, PAR 07–230 ''Feasibility Studies for Collaborative Interaction for Minority Institution/Cancer Center Partnership.''

Date: June 24–25, 2008.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Rhonda J. Moore, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 7151, Bethesda, MD 20892–8329, 301–451–9385. *moorerh@mail.nih.gov*

Name of Committee: National Cancer Institute Special Emphasis Panel, Application of Emerging Technologies for Cancer Research.

Date: June 26, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton at Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Marvin L. Salin, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7073, Bethesda, MD 20892–8329, 301–496–0694. *msalin@mail.nih.gov*

Name of Committee: National Cancer Institute Special Emphasis Panel, Comprehensive Minority Institution Cancer Center Partnership (MICCP) (U54).

Date: June 26–27, 2008.

Time: 8 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Bethesda North Hotel and Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: C. Michael Kerwin, PhD, MPH., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Rm. 8057, Bethesda, MD 20892–8329, 301–496–7421. *kerwinm@mail.nih.gov*

Name of Committee: National Cancer Institute Special Emphasis Panel, PAR 06–458 ''Small Grant for Behavioral Research in Cancer Control'' / PAR 08–055 ''Cancer Prevention Research Small Grant Program.''

Date: July 9, 2008.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Rhonda J. Moore, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 7151, Bethesda, MD 20892–8329, 301–451–9385. *moorerh@mail.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 19, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–11644 Filed 5–23–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; SBIR Phase II ''Multiplexed Protein Assays by Real-time Immuno-PCR''.

Date: June 12, 2008.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Lalita D. Palekar, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7141, Bethesda, MD 20892–7405, 301–496–7575, *palekarl@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Mentored Clinical Scientist Research Career Development Award (K08).

Date: June 25, 2008.

Time: 10:30 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Robert Bird, PhD, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8113, Bethesda, MD 20892–8328, 301–496–7978, *birdr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 20, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–11811 Filed 5–23–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel Clinical Science.

Date: June 23–24, 2008.

Time: June 23, 2008, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Jeanette M. Hosseini, PhD, Scientific Review Administrator, Office of Scientific Review, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, (301) 594–9096, *jeanetteh@mail.nih.gov*.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel Centers for Excellence in Research (P01).

Date: June 25–27, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Gaithersburg Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.

Contact Person: Martina Schmidt, PhD, Scientific Review Administrator, Office of Scientific Review, National Center for Complementary & Alternative Medicine, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, 301–594–3456, *schmidma@mail.nih.gov*.

Dated: May 19, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–11714 Filed 5–23–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Digestive Diseases and Nutrition C Subcommittee.

Date: June 17–18, 2008.

Open: June 17, 2008, 8 a.m. to 8:30 a.m.

Agenda: To review procedures and discuss policy.

Place: Crowne Plaza Washington National Airport Hotel, 1480 Crystal Drive, Arlington, VA 22202.

Closed: June 17, 2008, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Washington National Airport Hotel, 1480 Crystal Drive, Arlington, VA 22202.

Closed: June 18, 2008, 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Washington National Airport Hotel, 1480 Crystal Drive, Arlington, VA 22202.

Contact Person: Dan E. Matsumoto, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes Of Health, Room 749, 6707 Democracy Boulevard, Bethesda, Md 20892–5452, (301) 594–8894, *matsumotod@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 19, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–11634 Filed 5–23–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Meeting: Secretary's Advisory Committee on Genetics, Health, and Society

Pursuant to Public Law 92–463, notice is hereby given of the sixteenth meeting of the Secretary's Advisory Committee on Genetics, Health, and Society (SACGHS), U.S. Public Health Service. The meeting will be held from 8:30 a.m. to approximately 11:30 a.m. on Monday, July 7, 2008, and 8 a.m. to approximately 5 p.m. on Tuesday, July 8, 2008, at the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. The meeting will be open to the public with

attendance limited to space available. The meeting also will be Web cast.

The meeting will involve an exploration of the issues associated with the marketing of personalized genomic information and services directly to consumers. The Committee will hear presentations about these services, including the specificity of information being provided and plans for helping consumers interpret and utilize the results for healthcare decisionmaking, consumer perspectives, the state of the underlying science, and public policy considerations. As part of this exploration, the Committee will adjourn for the afternoon of July 7 to participate in a workshop sponsored by Secretary Leavitt's Personalized Health Care Initiative on Understanding the Needs of Consumers in the Use of Genomic-based Health Information Services. The Committee also will review a proposed action plan for addressing issues associated with the genetics education and training of health professionals and move into the second stage of its priority setting process.

As always, the Committee welcomes hearing from anyone wishing to provide public comment on any issue related to genetics, health and society. Individuals who would like to provide public comment should notify the SACGHS Executive Secretary, Ms. Sarah Carr, by telephone at 301–496–9838 or e-mail at *carrs@od.nih.gov.* The SACGHS office is located at 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892. Anyone planning to attend the meeting who is in need of special assistance, such as sign language interpretation or other reasonable accommodations, is also asked to contact the Executive Secretary.

Under authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services established SACGHS to serve as a public forum for deliberations on the broad range of human health and societal issues raised by the development and use of genetic and genomic technologies and, as warranted, to provide advice on these issues. The draft meeting agenda and other information about SACGHS, including information about access to the Web cast, will be available at the following Web site: *http://www4.od.nih.gov/oba/sacghs.htm.*

Dated: May 16, 2008.

Jennifer Spaeth,

Director, NIH Office of Federal Advisory Committee Policy.

[FR Doc. E8–11792 Filed 5–23–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

The National Institute of Dental and Craniofacial Research Announces Plans To Develop Its Strategic Plan for 2009–2013 and Invites Public Comments

AGENCY: National Institute of Dental and Craniofacial Research (NIDCR), National Institutes of Health (NIH), Department of Health and Human Services (HHS).

ACTION: Request for comments.

SUMMARY: The NIDCR is developing a new strategic plan to guide the Institute's research efforts over the next five years (2009–2013). NIDCR is inviting public comments and input for the development of the plan via its Web site *http://www.nidcr.nih.gov*, by mail or fax to the addresses below.

ADDRESSES: National Institute of Dental and Craniofacial Research, Office of the Director, 31 Center Drive, Building 31 Room 2C39, MSC 2290 Bethesda, MD 20892.

FAX: 301–402–2185.

E-mail: *http://www.nidcr.nih.gov/NewsAndFeatures/Announcements/StrategicPlanInput.htm.*

DATES: Comments should be submitted via e-mail on or before June 20, 2008.

Background: NIDCR is the lead federal agency for research and research training on oral, dental and craniofacial diseases and disorders. NIDCR has a distinguished record of nearly 60 years of supporting research to advance the oral health of the nation. Achieving NIDCR's vision of advancing the oral health and well-being for all requires having a comprehensive strategic plan that identifies the most promising opportunities for investment, delineates the Institute's priorities, and that reflects the advice of the research community and the public at large. NIDCR achieves its mission to improve oral, dental and craniofacial health through research, research training and the dissemination of health information.

Request for Comments

The NIDCR seeks input to the following questions to inform the strategic plan:

1. Looking forward, should NIDCR increase its use of targeted research to ensure that key research areas with promise are addressed? If so, what priority areas would you recommend that NIDCR pursue? Targeted research is research solicited by the Institute via initiatives, RFAs or RFPs.

2. In your view, what are the truly ''transformative'' areas that could have the greatest benefit for advancing dental research?

3. What can be done to augment and accelerate the role and significance of dental and craniofacial research in the growing framework of translational research?

4. What should be NIDCR's position on funding ''high risk/high reward research''? What in your view constitutes ''high risk/high reward''?

5. In realistic terms, what can—and should—NIDCR do to expand and enhance the ''pipeline'' for new dental and craniofacial researchers?

6. Please provide any additional input that you think would be useful to NIDCR in developing its 2009—2013 Strategic Plan.

Individuals submitting public comments are asked to include relevant contact information [name, affiliation (if any), e-mail-address and phone]. This information may be disclosed to NIDCR senior staff serving on the strategic plan steering committee and to contractors working on behalf of NIDCR. Submission of this information is voluntary. However, the information you provide will help to categorize responses by scientific area of expertise, organizational entity or professional affiliation. Collection of this information is authorized under 42 U.S.C. 203, 241, 2891–1 and 44 U.S.C. 3101 and Sections 301 and 493 of the Public Health Service Act regarding the establishment of the National Institutes of Health, its general authority to conduct and fund research and to provide training assistance, and its general authority to maintain records in connection with its other functions.

Dated: May 17, 2008.

Lawrence A. Tabak,

Director, National Institute of Dental and Craniofacial Research, National Institutes of Health.

[FR Doc. E8–11799 Filed 5–23–08; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1755–DR]

Maine; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Maine (FEMA–1755–DR), dated May 9, 2008, and related determinations.

EFFECTIVE DATE: May 14, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Maine is hereby amended to include the Public Assistance program for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 9, 2008.

Knox, Lincoln, Piscataquis, Somerset, and Waldo Counties for Public Assistance.
Aroostook County for Public Assistance (already designated for Individual Assistance.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–11687 Filed 5–23–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1755–DR]

Maine; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maine (FEMA–1755–DR), dated May 9, 2008, and related determinations.

EFFECTIVE DATE: May 9, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 9, 2008, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Maine resulting from severe storms and flooding beginning on April 28, 2008, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Maine.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program also will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Phillip E. Parr, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

The following areas of the State of Maine have been designated as adversely affected by this declared major disaster:

Aroostook County for Individual Assistance.

All counties within the State of Maine are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–11689 Filed 5–23–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1755–DR]

Maine; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Maine (FEMA–1755–DR), dated May 9, 2008, and related determinations.

EFFECTIVE DATE: May 16, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Maine is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 9, 2008.

Penobscot County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034,

Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–11693 Filed 5–23–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1753–DR]

Mississippi; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–1753–DR), dated May 8, 2008, and related determinations.

EFFECTIVE DATE: May 8, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 8, 2008, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Mississippi resulting from severe storms and flooding beginning on March 20, 2008, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Mississippi.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program also will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael L. Parker, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

The following areas of the State of Mississippi have been designated as adversely affected by this declared major disaster:

Bolivar, Warren, Washington, and Wilkinson Counties for Individual Assistance.

All counties within the State of Mississippi are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–11686 Filed 5–23–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1749–DR]

Missouri; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Missouri (FEMA–1749–DR), dated March 19, 2008, and related determinations.

EFFECTIVE DATE: May 9, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective May 9, 2008.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–11688 Filed 5–23–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1754–DR]

Oklahoma; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA–1754–DR), dated May 9, 2008, and related determinations.

EFFECTIVE DATE: May 9, 2008.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 9, 2008, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Oklahoma resulting from severe storms, tornadoes, and flooding during the period of April 9–28, 2008, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Oklahoma.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. § 777. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program also will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Justin A. Dombrowski, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

The following areas of the State of Oklahoma have been designated as adversely affected by this declared major disaster:

Adair, Caddo, Coal, Delaware, Haskell, Hughes, Johnston, Latimer, Logan, Love, Mayes, McIntosh, Muskogee, Okfuskee, Ottawa, Pawnee, Pittsburg, Pushmataha, Rogers, Seminole, Sequoyah, Tillman, and Wagoner Counties for Public Assistance.

All counties within the State of Oklahoma are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidential Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E8–11690 Filed 5–23–08; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket Nos. TSA–2006–24191; Coast Guard–2006–24196]

Transportation Worker Identification Credential (TWIC); Enrollment Dates for the Ports of Paulsboro, NJ; Paducah, KY; Marquette, MI; Valdez, AK; St. Croix, VI; and Coos Bay, OR

AGENCY: Transportation Security Administration; United States Coast Guard; DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security (DHS) through the Transportation Security Administration (TSA) issues this notice of the dates for the beginning of the initial enrollment for the Transportation Worker Identification Credential (TWIC) for the Ports of Paulsboro, NJ; Paducah, KY; Marquette, MI; Valdez, AK; St. Croix, VI; and Coos Bay, OR.

DATES: TWIC enrollment begins in Paulsboro, Paducah, and Marquette on May 29, 2008; Valdez on June 4, 2008; St. Croix on June 5, 2008; and Coos Bay on June 11, 2008.

ADDRESSES: You may view published documents and comments concerning the TWIC Final Rule, identified by the docket numbers of this notice, using any one of the following methods.

(1) Searching the Federal Docket Management System (FDMS) Web page at *www.regulations.gov*;

(2) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*; or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

FOR FURTHER INFORMATION CONTACT: James Orgill, TSA–19, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220. Transportation Threat Assessment and Credentialing (TTAC), TWIC Program, (571) 227–4545; e-mail: *credentialing@dhs.gov*.

Background

The Department of Homeland Security (DHS), through the United States Coast Guard and the Transportation Security Administration (TSA), issued a joint final rule (72 FR 3492; January 25, 2007) pursuant to the Maritime Transportation Security Act (MTSA), Pub. L. 107–295, 116 Stat. 2064 (November 25, 2002), and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Pub. L. 109–347 (October 13, 2006). This rule requires all credentialed merchant mariners and individuals with unescorted access to secure areas of a regulated facility or vessel to obtain a TWIC. In this final rule, on page 3510, TSA and Coast Guard stated that a phased enrollment approach based upon risk assessment and cost/benefit would be used to implement the program nationwide, and that TSA would publish a notice in the **Federal Register** indicating when enrollment at a specific location will begin and when it is expected to terminate.

This notice provides the start date for TWIC initial enrollment at the Ports of Paulsboro, NJ, Paducah, KY, and Marquette, MI on May 29, 2008; Valdez, AK on June 4, 2008; St. Croix, VI on June 5, 2008; and Coos Bay, OR on June 11, 2008. The Coast Guard will publish a separate notice in the **Federal Register** indicating when facilities within the Captain of the Port Zone Delaware Bay, including those in the Port of Paulsboro; Captain of the Port Zone Ohio Valley, including those in the Port of Paducah; Captain of the Port Zone Sault Ste. Marie, including those in the Port of Marquette; Captain of the Port Zone Prince William Sound, including those in the Port of Valdez; Captain of the Port Zone San Juan, including those in the Port of St. Croix; and Captain of the Port Zone Portland, including those in the

Port of Coos Bay must comply with the portions of the final rule requiring TWIC to be used as an access control measure. That notice will be published at least 90 days before compliance is required.

To obtain information on the pre-enrollment and enrollment process, and enrollment locations, visit TSA's TWIC Web site at *http://www.tsa.gov/twic*.

Issued in Arlington, Virginia, on May 21, 2008.

Rex Lovelady,

Program Manager, TWIC, Office of Transportation Threat Assessment and Credentialing, Transportation Security Administration.

[FR Doc. E8–11807 Filed 5–23–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

[Docket No. USCBP–2006–0037]

International Registered Traveler Pilot Program Name Changed to Global Entry; Program Starting Date Accelerated; Changes to Enrollment Center Information

AGENCY: Customs and Border Protection; Department of Homeland Security.

ACTION: General notice.

SUMMARY: On April 11, 2008, Customs and Border Protection (CBP) published in the **Federal Register** a notice announcing a pilot international registered traveler program, then referred to as International Registered Traveler (IRT), to be operated by CBP to allow for the expedited clearance of pre-approved low-risk air travelers into the United States. This notice announces that the program is now known as Global Entry and that the starting date of the pilot program has been moved up to June 6, 2008. This notice also updates the contact information for the Enrollment Center at Washington Dulles International Airport, Sterling, Virginia.

DATES: The pilot will commence June 6, 2008. Applications currently are being accepted. Comments will be accepted throughout the duration of the pilot.

FOR FURTHER INFORMATION CONTACT: Fiorella Michelucci, Office of Field Operations, (202) 344–2564 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On April 11, 2008, Customs and Border Protection (CBP) published in the **Federal Register** (73 FR 19861) a notice announcing a pilot international registered traveler program, then referred to as International Registered Traveler (IRT), to be operated by CBP to allow for the expedited clearance of pre-approved low-risk air travelers into the United States. It was further announced that the pilot will begin on June 10, 2008, and will initially be conducted at the John F. Kennedy International Airport, Jamaica, New York; the George Bush Intercontinental Airport, Houston, Texas; and the Washington Dulles International Airport, Sterling, Virginia, and may expand to other locations as announced.

All aspects of the program as described in the April 11 notice are still in effect except for the changes set forth in this notice. Applications started being accepted for the pilot on May 12, 2008, and are still being accepted. Comments will be accepted throughout the duration of the pilot to the addresses provided in the April 11, 2008 notice.

Revisions to Previous Notice

This notice is to inform the public of three changes relating to the April 11, 2008 announcement: The name of the program has been changed to ''Global Entry'', and the operation of the pilot will commence on June 6, 2008, four days earlier than the date announced in the April 11, 2008 notice. This notice also updates the contact information for the Enrollment Center at Washington Dulles International Airport, Sterling, Virginia. The new telephone number for that location is 703–661–2854; the new fax number is 703–661–0013.

Dated: May 20, 2008.

W. Ralph Basham,

Commissioner, U.S. Customs and Border Protection.

[FR Doc. E8–11629 Filed 5–23–08; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–0777–XZ–241A]

Call for a Nomination for Front Range Colorado Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Resource Advisory Council Call for a Nomination on Colorado's Front Range.

SUMMARY: The purpose of this notice is to request a public nomination for the Bureau of Land Management (BLM) Front Range Resource Advisory Council (RAC) specifically in ''group 3,'' for the Elected Official Position. The RAC provides advice and recommendations to BLM on land use planning and management of the public lands along the Front Range of Colorado. The BLM will consider public nominations for 30 days after the publication date of this notice.

DATES: Send all nomination materials to the address below no later than June 27, 2008.

ADDRESS/CONTACT: Front Range RAC John Dow, Royal Gorge Field Office, BLM, 3028 E. Main St., Canon City, Colorado 81212 (719) 269–8559.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1730) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by BLM. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are consistent with the requirements of the Federal Advisory Committee Act (FACA). As required by the FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands. The rules governing RACs are found at 43 CFR 1784.b. Individuals may nominate themselves or others. Nominees must be residents of the State or States in which the RAC has jurisdiction. The BLM will evaluate the nominee based on their education, training, and experience and their knowledge of the geographical area of the RAC. The nominee should demonstrate a commitment to collaborative resource decisionmaking. The following must accompany all nominations:

—Letters of reference from represented interests or organizations,

—A completed background information nomination form,

—Any other information that speaks to the nominee's qualifications.

Simultaneous with this notice, the BLM Canon City Field Office will issue a press release providing additional information for submitting nominations.

Dated: May 19, 2008.

Roy L. Masinton,

Field Manager, Royal Gorge Field Office.

[FR Doc. E8–11745 Filed 5–23–08; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–420–2824–JT–FM01, DEG080005]

Notice of Intent To Prepare an Environmental Impact Statement for the Whiskey South II Vegetation Management Project, Cottonwood Field Office, Idaho County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent (NOI) to prepare an environmental impact statement.

SUMMARY: The Bureau of Land Management Cottonwood Field Office will prepare an environmental impact statement (EIS) consistent with the regulations pertaining to the National Environmental Policy Act (NEPA) and address key components of the National Fire Plan. Under the provisions of Section 102(2)(c) of the NEPA, the BLM announces its intentions to prepare an EIS and solicit public comments regarding issues and resource information for this project. The purpose of the Whiskey South II project is to reduce existing and potential fuel loads to reduce the potential of high-intensity large-scale wildfire, improve the safety and effectiveness of firefighters in fire suppression activities, contribute to the economic and social well being of residents and visitors within proximity to the project area, maintain and improve water quality and fish habitat, and improve wildlife habitat and forage opportunities.

DATES: The public scoping period for the Whiskey South II project will begin with publication of this notice. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis and EIS alternatives. The BLM will notify the public of any other opportunities for involvement for this proposal at least 15 days prior to the event. Meeting dates, locations and times will be announced by news release to the media including local newspapers and radio stations, individual mailings, and postings on the following BLM Web site: *http://www.blm.gov/id/st/en/fo/cottonwood.html*. To be most helpful, you should submit formal scoping comments within 30 days after this NOI is published. The draft EIS is expected to be distributed for public review and comment in the spring of 2009. The final environmental impact statement is expected to be ready four to six months later.

ADDRESSES: More detailed information about this project, including a map, is available at the Cottonwood Field Office, 1 Butte Drive, Cottonwood, Idaho 83522. Please submit written comments to the Cottonwood Field Office, Attn: Stephanie Connolly, at the above address. Fax comments to (208) 962–3275, or e-mail them to *cynthia_weston@blm.gov*. Please indicate Whiskey South II in the subject line.

FOR FURTHER INFORMATION CONTACT: Cindy Weston, Project Leader, (208) 769–5114 or e-mail: *cynthia_weston@blm.gov*; Robbin Boyce, Assistant Cottonwood Field Office Manager, (208) 962–3793 or e-mail: *robbin_boyce@blm.gov*.

SUPPLEMENTARY INFORMATION: On August 24, 2005, a scoping letter for the Whiskey South II proposal was mailed to known interested groups and individuals. Based on the comments that were received and from the interdisciplinary team's knowledge of the issues and other projects in this area, it has been determined that further analysis is warranted and an EIS will be prepared.

The Cottonwood Field Office is seeking information, comments, and assistance from other agencies, organizations, Tribes, and individuals who may be interested in or affected by the Proposed Action. The Cottonwood Field Office will issue local press releases notifying the public of additional opportunities to meet with staff and to discuss the project in more detail. Issues previously identified during public scoping for this project as well as comments received as a result of this Notice will be used to prepare the EIS.

The proposed action would implement key components of the National Fire Plan as addressed in the 10–Year Cohesive Strategy by reducing hazardous fuels conditions; reduce the risk of high intensity wildland fire to life, property and natural resources in the Elk City wildland-urban interface; and maintain low intensity fire conditions where they exist. The proposed action implements recommendations from the Idaho County Wildland Fire and Mitigation Plan (2003). The proposed action would also maintain and improve water quality, fish and wildlife habitat and improve wildlife forage opportunities.

The proposed action includes vegetation management on about 710 acres using cable, tractor and helicopter yarding methods. Slash disposal will be accomplished through piling, burning, or utilization. Pre-commercial thinning (no timber harvest), followed by prescribed burning, would be conducted on about 10 acres. Riparian habitat conservation areas (RHCAs) adjacent to the South Fork Clearwater River and Crooked River would be treated only by burning, about 65 acres; no timber harvest or pre-commercial thinning would occur. The project would include temporary and new road construction. The new road would be behind a locked gate, and public motorized use would be restricted. Restoration activities are centered on transportation modifications. Approximately 5.1 miles of existing roads would be decommissioned, and another 3.5 miles would be closed to yearlong travel. Road upgrades, graveling and improving drainage would occur on 4.2 miles of existing road.

This project would remove dead and dying trees; manage forest stands to meet desired conditions of size, class and species distributions by removing dead and live trees; reduce ladder fuels; maintain existing fire resistant tree species in areas where understory trees are encroaching due to fire exclusion; improve quantity and quality of elk winter range by reducing conifer encroachment and stimulating browse species through use of prescribed fire; and improve aquatic resource conditions through various restoration activities such as placing rock on roads adjacent to live water crossings and road decommissioning.

Issues previously identified during public scoping for this project include the following:

- Road construction, sediment and water quality
- Fuel reduction methods and retention of old growth timber
- Treatments in landslide prone areas
- Community preparedness, economics and timber values
- Invasive species, snowmobile access, wild and scenic rivers, and air quality
- Fisheries (resident, anadromous, and listed species) habitat
- Wildlife habitat, including big game hiding, security, thermal cover and travel corridors/connectivity; snag and old growth habitat retention
- Cumulative impacts of past and likely future activities in the Elk City area

If you have specific issues or other concerns that BLM should consider in the NEPA process, please identify them in writing. You may send comments to the BLM by mail, facsimile, or electronic mail. Comments may also be hand-delivered to the Cottonwood Field Office. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that

your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 20, 2008.

Gary D. Cooper,

District Manager.

[FR Doc. E8–11722 Filed 5–23–08; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Extension of Post-Sale Evaluation Period for Central Gulf of Mexico Lease Sale 206

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice to Extend Post-Sale Evaluation Period for Central Gulf of Mexico Lease Sale 206.

SUMMARY: This notice extends by 30 days, the post-sale evaluation period for Central Gulf of Mexico Lease Sale 206. The Minerals Management Service (MMS) will complete evaluating all the bids received in this sale by July 17, 2008. This action is necessary due to the unusually high number of bids received in this lease sale.

DATES: The post-sale evaluation period ends on June 17, 2008.

FOR FURTHER INFORMATION CONTACT: David Marin, Regional Supervisor, Resource Evaluation, Gulf of Mexico Region, telephone 504–736–2710.

SUPPLEMENTARY INFORMATION: In the Central Gulf of Mexico Sale 206, held March 19, 2008, we received 1057 bids on 615 tracts, 513 tracts of which passed to a second phase requiring additional detailed evaluations. The aggressive bidding activity is due, in part, to the high number of quality prospects on recently expired unexplored tracts in newly established deepwater hydrocarbon plays and to the cost saving technological advances related to hydrocarbon exploration and development in the Gulf of Mexico's deepwater environment. The unusually high number of bids received on a large number of tracts, and the high volume of exclusively reprocessed data identified on Sale 206, significantly increases the workload for reviewing the adequacy of bids. Consequently, MMS is unable to conduct and complete the bid review process within the 90 days, *i.e.*, by June 17, 2008. Under the provisions of § 256.47(e)(2), MMS is extending the bid evaluation period until July 17, 2008.

Dated: May 5, 2008.

Lars Herbst,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. E8–11711 Filed 5–23–08; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 25, 2008, Siegfried (USA), Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Oripavine(9330), a basic class of controlled substance listed in schedule II.

The company will use the above listed controlled substance in the manufacture of other controlled substance intermediates for sale to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 28, 2008.

Dated: May 15, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–11631 Filed 5–23–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 21, 2007, AMRI Rensselaer, Inc., 33 Riverside Avenue, Rensselaer, New York 12144, made application by renewal to the Drug Enforcement Administration (DEA) as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Amphetamine (1100)	II
Lisdexamfetamine (1205)	II
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Dextropropoxyphene, bulk (non-dosage form) (9273)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The company plans to manufacture bulk controlled substances for use in product development and for distribution to its customers. In reference to drug code 7360 (Marihuana), the company plans to bulk manufacture cannabidiol as a synthetic intermediate. This controlled substance will be further synthesized to bulk

manufacture a synthetic THC (7370). No other activity for this drug code is authorized for this registration.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than July 28, 2008.

Dated: May 19, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–11633 Filed 5–23–08; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before June 26, 2008. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001

E-mail: requestschedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov*.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1228.24(b)(3).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Food Safety and Inspection Service (N1–462–07–1, 1 item, 1 temporary item). Master file associated with an electronic information system used to analyze food inspection performance data. The proposed disposition instructions are limited to electronic records.

2. Department of Homeland Security, Office of Public Affairs (N1–563–07–17, 13 items, 8 temporary items). Non-executive level biographies; routine photographs; agreements for non-governmental, entertainment-oriented projects requesting use of the agency seal, insignia, and other assistance; and working papers and background materials. Proposed for permanent retention are executive level biographies, communication plans, mission-related photographs, press conference records, and press releases.

3. Department of Homeland Security, United States Citizenship and Immigration Services (N1–566–08–12, 2 items, 2 temporary items). Inputs and master file associated with a local area

network that tracks the adjudication of applications and petitions for immigration benefits and services except those related to asylum and naturalization.

4. Department of Homeland Security, United States Citizenship and Immigration Services (N1–566–08–13, 2 items, 2 temporary items). Inputs and master file associated with a mainframe system that tracks the adjudication of applications and petitions for immigration benefits and services except those related to asylum and naturalization.

5. Department of Homeland Security, United States Citizenship and Immigration Services (N1–566–08–14, 2 items, 2 temporary items). Inputs and master file associated with an electronic consolidated database used as a repository for centralized agency reporting and managerial capabilities.

6. Department of Homeland Security, United States Immigration and Customs Enforcement (N1–567–08–2, 1 item, 1 temporary item). Office of Investigations confidential informant case files.

7. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (N1–436–07–04, 2 items, 2 temporary items). Master file and inputs used in the oversight and analysis of the Capital Planning and Investment Control process.

8. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (N1–436–08–9, 9 items, 9 temporary items). Records relating to the agency's public website, including web content, management, and technical records.

9. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (N1–436–08–12, 6 items, 6 temporary items). Master file, inputs, and outputs of the accident claim tort tracking system and vehicle accident tracking system.

10. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (N1–436–08–14, 2 items, 2 temporary items). Master file and inputs of the Trace Operations, Workflow, and Reporting System, which supports the Firearms Tracing System.

11. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (N1–436–08–15, 2 items, 2 temporary items). Master file and inputs of the eTrace system, which supports the Firearms Tracing System.

12. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (N1–436–08–16, 1 item, 1 temporary item). Master file consisting of training materials and training documentation of employees.

13. Department of Justice, Criminal Division (N1–60–08–13, 1 item, 1 temporary item). Master file for an electronic information system, which tracks applications for S-class visa status.

14. Department of Justice, Federal Bureau of Investigation (N1–65–07–22, 14 items, 6 temporary items). Reference files, work papers, and audit logs of the Uniform Crime Reporting Program. Proposed for permanent retention are annual statistical reports, handbooks and manuals, special statistical publications, and the master files, for the following electronic systems: Summary Reporting, National Incident-Based Reporting, Hate Crime Statistics, and Law Enforcement Officers Killed and Assaulted.

15. Department of Justice, Federal Bureau of Investigation (N1–65–08–3, 12 items, 8 temporary items). Inputs, outputs, audit logs, and backups of the Foreign Intelligence Surveillance Act Management System and the National Security Letter Subsystem. Proposed for permanent retention are the master files and system documentation for both systems.

16. Department of Justice, Federal Bureau of Investigation (N1–65–08–11, 4 items, 4 temporary items). Master file and inputs of the Terrorist Review and Examination Unit Watchlist Nomination Log, which facilitates nomination and inclusion of suspected terrorist investigation subjects onto watchlists.

17. Department of Justice, Federal Bureau of Investigation (N1–65–08–12, 1 item, 1 temporary item). Master file for the document control system used to maintain accountability and control for handling of classified documents.

18. Department of Justice, Federal Bureau of Investigation (N1–65–08–13, 10 items, 10 temporary items). Website and program records for an information sharing network for public and private collaboration in identifying and decreasing national critical infrastructure vulnerabilities.

19. Department of Justice, Federal Bureau of Investigation (N1–65–08–14, 4 items, 4 temporary items). Master file, outputs, documentation, and audit logs for the decommissioned Data Extraction and Extension Project, which consolidates information about counterterrorism investigations.

20. Department of Justice, Justice Management Division (N1–60–08–6, 1 item, 1 temporary item). Master file of the Rent Management System, which tracks real property and space management data to produce accurate rent billings and perform rent budgeting functions.

21. Federal Communications Commission, Office of Engineering and Technology (N1–173–08–4, 1 item, 1 temporary item). Master file for an electronic information system used to address questions related to policy and guidelines regarding telecommunication equipment authorizations.

22. Federal Communications Commission, Office of Engineering and Technology (N1–173–08–5, 1 item, 1 temporary item). Master file for an electronic information system used to document receipt and disposal of sample equipment.

23. Federal Maritime Commission, Bureau of Trade Analysis (N1–358–08–07, 3 items, 3 temporary items). Carrier and marine terminal operator agreement files, subject files, and copies of trade studies for the Office of Agreements/Office of Economics and Competition Analysis.

Dated: May 20, 2008.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E8–11791 Filed 5–23–08; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL INSTITUTE FOR LITERACY

National Institute for Literacy Advisory Board; Notice of an Open Meeting With a Closed Session

AGENCY: National Institute for Literacy.

ACTION: Notice of an open meeting with a closed session.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming open meeting of the National Institute for Literacy Advisory Board. The notice also describes the functions of the Committee. Notice of this meeting is required by Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of its opportunity to attend.

DATES: June 11, 2008.

Time: 8 a.m.–8:30 a.m. and 9:30 a.m.–6 p.m. Closed session 8:30 a.m. to 9:30 a.m.

ADDRESSES: The National Institute for Literacy, 1775 I St., NW., Suite 730, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Steve Langley, Staff Assistant, the National Institute for Literacy; 1775 I St., NW., Suite 730; phone: (202) 233–2025; fax: (202) 233–2050; e-mail: *slangley@nifl.gov*.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The National Institute for Literacy Advisory Board is authorized by section 242 of the Workforce Investment Act of 1998, Pub. L. 105–220 (20 U.S.C. 9252). The Board consists of 10 individuals appointed by the President with the advice and consent of the Senate. The Board advises and makes recommendations to the Interagency Group that administers the Institute. The Interagency Group is composed of the Secretaries of Education, Labor, and Health and Human Services. The Interagency Group considers the Board's recommendations in planning the goals of the Institute and in implementing any programs to achieve those goals. Specifically, the Board performs the following functions: (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and the Institute's Director.

The purpose of this meeting is to discuss the Institute's future and current program priorities; status of on-going Institute work; other relevant literacy activities and issues; and other Board business as necessary.

On June 11, 2008 from 8:30 a.m. to 9:30 a.m., the Board will meet in closed session to discuss personnel issues related to the Institute's Director position.

The discussion is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personnel privacy. The discussion must therefore be held in closed session under exemptions 2 and 6 of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(2) and (6). A summary of the activities at the closed session and related matters that are informative to the public and consistent with the policy of 5 U.S.C. 552b will be available to the public within 14 days of the meeting.

Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.*, interpreting services, assistance listening devices, or materials in alternative format) should notify Steve Langley at 202–233–2025 no later than June 4, 2008. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Request for Public Written Comment. The public may send written comments to the Advisory Board no later than 5 p.m. on June 4, 2008, to Steve Langley at the National Institute for Literacy, 1775 I St., NW., Suite 730, Washington, DC 20006, e-mail: *slangley@nifl.gov*.

Records are kept of all Committee proceedings and are available for public inspection at the National Institute for Literacy, 1775 I St., NW., Suite 730, Washington, DC 20006, from the hours of 9 a.m. to 5 p.m., Eastern Time Monday through Friday.

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: *www.ed.gov/news/federegister*.

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: *www.gpoaccess.gov/nara/index.html*.

Dated: May 20, 2008.

Sandra Baxter,

Director, The National Institute for Literacy.

[FR Doc. E8–11707 Filed 5–23–08; 8:45 am]

BILLING CODE 6055–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Extend Without Revision a Current Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewal of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by July 28, 2008 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

For Additional Information or Comments: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone 703–292–7556; or send e-mail to *splimpto@nsf.gov*. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Fellowship Applications and Award Forms.

OMB Approval Number: 3145–0023.

Expiration Date of Approval: August 31, 2008.

Type of Request: Intent to seek approval to extend without revision an information collection for three years.

Abstract

Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1861 *et seq.*), as amended, states that ''The Foundation is authorized to award, within the limits of funds made available * * * scholarships and graduate fellowships for scientific study or scientific work in the mathematical physical, medical, biological, engineering, social, and other sciences at appropriate nonprofit American or nonprofit foreign institutions selected by the recipient of such aid, for stated periods of time.''

The Foundation Fellowship Programs are designed to meet the following objectives:

- To assure that some of the Nation's most talented students in the sciences obtain the education necessary to become creative and productive scientific researchers.
- To train or upgrade advanced scientific personnel to enhance their abilities as teachers and researchers.
- To promote graduate education in the sciences, mathematics, and engineering at institutions that have traditionally served ethnic minorities.
- To encourage pursuit of advanced science degrees by students who are members of ethnic groups traditionally under-represented in the Nation's advanced science personnel pool.

The list of fellowship award programs sponsored by the Foundation may be found via FastLane through the NSF Web site: *http://www.fastlane.nsf.gov*.

Estimate of Burden: These are annual award programs with application deadlines varying according to the fellowship program. Public burden may also vary according to program, however it is estimated that each submission is averaged to be 12 hours per respondent.

Respondents: Individuals.

Estimated Number of Responses: 5,000.

Estimated Total Annual Burden on Respondents: 60,000 hours.

Frequency of Responses: Annually.

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 shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; (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.

Dated: May 21, 2008.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E8–11710 Filed 5–23–08; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by June 26, 2008. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

1. *Applicant:* Terrie M. Williams, COH-Long Lab, University of California, Santa Cruz, 100 Shaffer Road, Santa Cruz, CA 95060. Permit Application No. 2009–005.

Activity for Which Permit is Requested: Take and Import into the USA. The applicant plans to capture up to 50 non-pregnant adult Weddell Seals each season over the course of 2 years. The seals will be weighed, measured, sedated to attach instruments and collect blood and tissue samples, then released. The samples and measurements will be used to determine how hunting behavior, prey preference and foraging of Weddell seals changes during periods of decreasing and increasing photoperiod (autumn and spring) and the extended period of winter darkness (mid-May to early August).

Location: McMurdo Sound.

Dates: August 1, 2008 to December 30, 2011.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. E8–11817 Filed 5–23–08; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance and availability of Draft Regulatory Guide (DG)–1175.

FOR FURTHER INFORMATION CONTACT: Ching H. Ng, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–8054 or e-mail *Ching.Ng@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) has issued for public comment a draft guide in the agency's ''Regulatory Guide'' series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating technical information related to specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide, entitled, ''Seismic Qualification of Electric and Active Mechanical Equipment and Functional Qualification of Active Mechanical Equipment for Nuclear Power Plants,'' is temporarily identified by its task number, DG–1175, which should be mentioned in all related correspondence.

The NRC issued Revision 2 of Regulatory Guide 1.100, titled ''Seismic Qualification of Electric and Mechanical Equipment for Nuclear Power Plants,'' in June 1988. With a few exceptions and clarifications, it endorsed the Institute of Electrical and Electronics Engineers (IEEE) Std 344–1987, ''IEEE Recommended Practice for Seismic Qualification of Class 1E Equipment for Nuclear Power Generating Stations,'' and extended the application of that standard to the seismic qualification of mechanical equipment. In extending the application of IEEE Std 344–1987 to mechanical equipment, the NRC staff recognized differences in seismic qualification methods for electric equipment (including instrumentation and control (I&C) components) and mechanical equipment. Specifically, Revision 2 of Regulatory Guide 1.100 stated that seismic qualification of mechanical equipment by analysis is permitted when such equipment can be modeled to adequately predict its response. The IEEE has updated IEEE Std 344–1987 and issued it as IEEE Std 344–2004 in June 2005.

Revision 2 also stated that the American Society of Mechanical Engineers (ASME) was developing a standard for seismic qualification of mechanical equipment and, upon publication of that standard, the NRC staff would review it for suitability for endorsement by a revision of Regulatory Guide 1.100. In 1994, the ASME issued a standard, ASME QME–1–1994, ''Qualification of Active Mechanical Equipment Used in Nuclear Power Plants.'' The ASME QME–1 covers both seismic qualification and functional qualification of active mechanical equipment. The ASME subsequently revised and reissued the standard in 1997, 2000, and 2002, with the last

revision issued in November 2007 as ASME QME–1–2007. This is the first time the NRC is endorsing ASME QME–1.

The NRC developed this regulatory guide (i.e., Revision 3) to endorse, with exceptions and clarifications, IEEE Std 344–2004 and ASME QME–1–2007. Specifically, Regulatory Position C.1 of this regulatory guide endorses, with exceptions and clarifications, the entire IEEE Std 344–2004 and Section QR, ''General Requirements,'' and Nonmandatory Appendix QR–A, ''Seismic Qualification of Active Mechanical Equipment,'' of ASME QME–1–2007 for the seismic qualification of electric and active mechanical equipment, respectively. Position C.2 of this regulatory guide endorses, with exceptions and clarifications, Section QR and the remaining sections of ASME QME–1–2007 (except Nonmandatory Appendix QR–A) for the functional qualification of active mechanical equipment.

II. Further Information

The NRC staff is soliciting comments on DG–1175. Comments may be accompanied by relevant information or supporting data, and should mention DG–1175 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS). Personal information will not be removed from your comments. You may submit comments by any of the following methods:

1. *Mail comments to:* Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

2. *E-mail comments to: NRCREP@nrc.gov.*

3. *Hand-deliver comments to:* Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

4. *Fax comments to:* Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 415–5144.

Requests for technical information about DG–1175 may be directed to the NRC Program Manager, Ching H. Ng at (301) 415–8054 or by e-mail at *Ching.Ng@nrc.gov.*

Comments would be most helpful if received by July 11, 2008. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of DG–1175 are available through the NRC's public Web site under Draft Regulatory Guides in the ''Regulatory Guides'' collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/.* Electronic copies are also available in ADAMS (*http://www.nrc.gov/reading-rm/adams.html*), under Accession No. ML072620346.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *PDR@nrc.gov.*

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 20 day of May, 2008.

For the Nuclear Regulatory Commission.

Andrea D. Valentin,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. E8–11748 Filed 5–23–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–282 and 50–306]

Nuclear Management Company, LLC; Correction to Notice of Receipt and Availability of Application for Renewal of Prairie Island Nuclear Generating Plant, Units 1 and 2. Facility Operating Licenses Nos. DPR–42 and DPR–60, for an Additional 20-Year Period

This notice provides corrections to the ''Notice of Receipt and Availability of Application for Renewal of Prairie Island Nuclear Generating Plant, Units 1 and 2 Facility Operating Licenses Nos. DPR–42 and DPR–60 for an Additional 20-Year Period,'' published on May 6, 2008, in the **Federal Register** on page 25034 (73 FR 25034).

Corrections

1. Paragraph 1 should read as follows: ''The U.S. Nuclear Regulatory Commission (NRC or Commission) has received an application, dated April 11, 2008, from Nuclear Management Company, LLC, filed pursuant to Section 104b of the Atomic Energy Act of 1954, as amended, and Title 10 of the Code of Federal Regulations Part 54 (10 CFR part 54), to renew the operating license for the Prairie Island Nuclear Generating Plant, Units 1 and 2 (PINGP). Renewal of the licenses would authorize the applicant to operate the facilities for an additional 20-year period beyond the period specified in the current operating licenses. The current operating licenses for PINGP (DPR–42 and DPR–60) expire on August 09, 2013, and October 29, 2014, respectively. PINGP, Units 1 and 2, are pressurized-water reactors designed by Westinghouse that are located 28 miles Southeast of Minneapolis, MN. The acceptability of the tendered application for docketing, and other matters including an opportunity to request a hearing, will be the subject of subsequent **Federal Register** notices.''

2. Paragraph 2 should read as follows: ''Copies of the application are available to the public at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852 or through the internet from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room under Accession Number ML081130663. The ADAMS Public Electronic Reading Room is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html.* In addition, the application is available at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html.* Persons who do not have access to the internet or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff at 1–800–397–4209, extension 4737, or by e-mail at *pdr@nrc.gov.*''

Dated at Rockville, Maryland, this 19th day of May, 2008.

For the Nuclear Regulatory Commission.

Samson Lee,

Acting Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E8–11750 Filed 5–23–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–83]

The University of Florida; Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing Regarding Renewal of the University of Florida Training Reactor, Facility Operating License No. R–56, for an Additional 20-Year Period

The Nuclear Regulatory Commission (NRC or the Commission) is considering an application for the renewal of Facility Operating License No. R–56, which authorizes the University of Florida (the licensee) to operate the University of Florida Training Reactor (UFTR) at 100 kilowatts thermal power. The renewed license would authorize the licensee to operate the UFTR for an additional 20 years from the date of issuance.

On July 18, 2002, the Commission's staff received an application from the University of Florida filed pursuant to 10 CFR Part 50.51(a), to renew Facility Operating License No. R–56 for the UFTR. Because the license renewal application was filed in a timely manner in accordance with 10 CFR 2.109, the license will not be deemed to have expired until the license renewal application has been finally determined.

Based on its initial review of the application, the Commission's staff determined that the University of Florida submitted sufficient information in accordance with 10 CFR 50.33 and 50.34 that the application is acceptable for docketing. The current Docket No. 50–83 for Facility Operating License No. R–56 will be retained. The docketing of the renewal application does not preclude requests for additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application. Prior to a decision to renew the license, the Commission will make findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

Within 60 days after the date of publication of this notice 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/requestor 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 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 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/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.

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 ten (10) 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.

Detailed guidance which the NRC uses to review applications for the renewal of non-power reactor licenses can be found in the document NUREG–1537, entitled ''Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors,'' can be obtained from the Commission's PDR. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The detailed review guidance (NUREG–1537) may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession No. ML042430055 for part one and ML042430048 for part two. Copies of the application to renew the facility license for the licensee are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2738. The initial application and other related documents may be accessed through the NRC's Public Electronic Reading Room, at the address mentioned above, under ADAMS Accession Nos. ML022130145, ML022130185, ML022130244, ML022130140, ML081340724 (Redacted Version), and ML081350571 (Redacted Version). Persons who do not have access to ADAMS, or have problems accessing the documents located in ADAMS, may contact the NRC Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 19th day of May, 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. E8–11768 Filed 5–23–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Office of New Reactors; Notice of Availability of the Final Interim Staff Guidance DC/COL–ISG–01 on Seismic Issues Associated With High Frequency Ground Motion

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of availability.

SUMMARY: The NRC is issuing its Final Interim Staff Guidance (ISG) DC/COL–ISG–01. This DC/COL–ISG provides guidance on Seismic Issues associated with High Frequency (HF) Ground Motion for Design Certification (DC) and Combined License (COL) applicants. Moreover, this COL/DC–ISG describes how the staff will review seismic issues associated with HF ground motion as addressed in DC applications and COL applications.

Disposition: The draft form of the ISG was published for public comments on August 16, 2007 (ML072200566). The staff received industry comments dated September 12, 2007. This revised version incorporated changes resulting from the disposition of the industry comments and as a result of discussions at the December 20, 2007 and the February 13, 2008 meetings (ML080560592).

The NRC staff issues DC/COL–ISGs to facilitate timely implementation of the current staff guidance and to facilitate activities associated with review of applications for DC and COLs by the Office of New Reactors. The NRC staff will also incorporate the approved DC/COL–ISGs into the next revision of review guidance documents used by the Office of New Reactors.

ADDRESSES: The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should

contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by e-mail at *pdr@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Rebecca L. Karas, Branch Chief, Geoscience and Geotechnical Engineering Branch 1, Division of Site and Environmental Reviews, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–7533 or e-mail at *rebecca.karas@nrc.gov*.

Mr. Sujit K. Samaddar, Branch Chief, Structural Engineering Branch 2, Division of Engineering, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–3309 or e-mail at *sujit.samaddar@nrc.gov*.

SUPPLEMENTARY INFORMATION: The agency posts its issued staff guidance in the agency external Web page (*http://www.nrc.gov/reading-rm/doc-collections/isg/*) (ML081400293).

Dated at Rockville, Maryland, this 19th day of May 2008.

For the Nuclear Regulatory Commission,

William D. Reckley,

Chief, Rulemaking, Guidance and Advanced Reactor Branch, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. E8–11786 Filed 5–23–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8943]

Notice of Opportunity for Hearing, Crow Butte Resources, Inc., Crawford, NE, In Situ Leach Recovery Facility, and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) for Contention Preparation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of license amendment, and opportunity to request a hearing.

DATES: A request for a hearing must be filed by July 28, 2008.

FOR FURTHER INFORMATION CONTACT: Stephen J. Cohen, Project Manager, Uranium Recovery Licensing Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–7182; fax number: (301) 415–5369; e-mail: *stephen.cohen@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated November 27, 2007, a license amendment application from Crow Butte Resources, Inc. (CBR), requesting renewal of its Source Materials License for its in situ leach (ISL) uranium recovery facility located in Crawford, Nebraska. License No. SUA–1534 authorizes the licensee to operate an ISL uranium recovery facility to produce yellowcake. Specifically, the application requests that NRC renew CBR's current license for a standard 10-year period.

An NRC administrative review, documented in a letter to CBR dated March 28, 2008, found the application acceptable to begin a technical review. If the NRC approves the renewal request, the approval will be documented in an amendment to NRC License No. SUA–1534. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations. These findings will be reflected in a Safety Evaluation Report and in a separate environmental review document. This license renewal application contains Sensitive Unclassified Non-Safeguards Information (SUNSI) in the form of cultural and historic resource information.

II. Opportunity To Request a Hearing

The NRC hereby provides notice that this is a proceeding on an application for a license amendment regarding renewal of Source Materials License No. SUA–1534 issued to Crow Butte Resources for its ISL uranium recovery facility in Crawford, Nebraska. Any person whose interest may be affected by this proceeding, and who desires to participate as a party, must file a request for a hearing and a specification of the contentions which the person seeks to have litigated in the hearing, in accordance with the NRC E-Filing rule, which the NRC promulgated in August, 2007, 72 FR 49139 (August 28, 2007). The E-Filing rule 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 ten (10) 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 Identification (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/requester (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requester 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/requester has obtained a digital ID certificate, has 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 social security 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.

The formal requirements for documents contained in 10 CFR 2.304(c)–(e) must be met. If the NRC grants an electronic document exemption in accordance with 10 CFR 2.302(g)(3), then the requirements for paper documents, set forth in 10 CFR 2.304(b) must be met.

In accordance with 10 CFR 2.309(b), a request for a hearing must be filed by July 28, 2008.

In addition to meeting other applicable requirements of 10 CFR 2.309, the general requirements involving a request for a hearing filed by a person other than an applicant must state:

1. The name, address, and telephone number of the requester;

2. The nature of the requester's right under the Act to be made a party to the proceeding;

3. The nature and extent of the requester's property, financial or other interest in the proceeding;

4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and

5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309(b).

In accordance with 10 CFR 2.309(f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;

2. Provide a brief explanation of the basis for the contention;

3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;

4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;

5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and

6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

In addition, in accordance with 10 CFR 2.309(f)(2), contentions must be based on documents or other information available at the time the petition is to be filed, such as the application, supporting safety analysis report, environmental report or other supporting document filed by an applicant or licensee, or otherwise available to the petitioner. On issues arising under the National Environmental Policy Act, the requester/petitioner shall file contentions based on the applicant's environmental report. The requester/petitioner may amend those contentions or file new contentions if there are data or conclusions in the NRC draft, or final environmental impact statement, environmental assessment, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's documents. Otherwise, contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. Technical—primarily concerns issues relating to matters discussed or referenced in the Safety Evaluation Report for the proposed action.

2. Environmental—primarily concerns issues relating to matters discussed or referenced in the Environmental Report for the proposed action.

3. Miscellaneous—does not fall into one of the categories outlined above.

If the requester/petitioner believes a contention raises issues that cannot be classified as primarily falling into one of these categories, the requester/petitioner must set forth the contention and supporting bases, in full, separately for each category into which the requester/petitioner asserts the contention belongs with a separate designation for that category.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so, in accordance with the E-Filing rule, within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

In accordance with 10 CFR 2.309(g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR 2.310.

III. Further Information

Documents related to this action, including the application for 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 ADAMS accession numbers for the documents related to this notice are: Request for License Renewal Transmittal Letter (ML073470645), License Renewal Application (combined technical and environmental reports), Part 1 (ML073480266), License Renewal Application (combined technical and environmental reports), Part 2 (ML073480267), and the acceptance review letter dated March 28, 2008 (ML080720341). 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 Public Document Room (PDR), O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) for Contention Preparation

1. This order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information.

2. Within ten (10) days after publication of this notice of opportunity for hearing any potential party as defined in 10 CFR 2.4 who believes access to SUNSI is necessary for a response to the notice may request access to such information. A ''potential party'' is any person who intends or may intend to participate as a party by demonstrating standing and the filing of an admissible contention under 10 CFR 2.309. Requests submitted later than ten (10) days will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

3. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, MD 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *HearingDocket@nrc.gov* and *OGCmail@nrc.gov*, respectively[1]. The request must include the following information:

a. A description of the licensing action with a citation to this **Federal Register** notice of opportunity for hearing];

b. The name and address of the potential party and a description of the potential party's particularized interest that could be harmed, if the licensing action is taken;

c. The identity of the individual requesting access to SUNSI and the requester's need for the information in order to meaningfully participate in this adjudicatory proceeding, particularly why publicly available versions of the application would not be sufficient to provide the basis and specificity for a proffered contention;

4. Based on an evaluation of the information submitted under items 2 and 3.a through 3.c, above, the NRC staff will determine within ten days of receipt of the written access request whether (1) there is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding, and (2) there is a legitimate need for access to SUNSI.

5. A request for access to SUNSI will be granted if:

a. The request has demonstrated that there is a reasonable basis to believe that a potential party is likely to establish standing to intervene or to otherwise participate as a party in this proceeding;

b. The proposed recipient of the information has demonstrated a need for SUNSI;

c. The proposed recipient of the information has executed a Non-Disclosure Agreement or Affidavit and agrees to be bound by the terms of a Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI; and

d. The presiding officer has issued a protective order concerning the information or documents requested.[2] Any protective order issued shall provide that the petitioner must file SUNSI contentions 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

6. If the request for access to SUNSI is granted, the terms and conditions for access to such information will be set forth in a draft protective order and affidavit of non-disclosure appended to a joint motion by the NRC staff, any other affected parties to this proceeding,[3] and the petitioner(s). If the diligent efforts by the relevant parties or petitioner(s) fail to result in an agreement on the terms and conditions for a draft protective order or non-disclosure affidavit, the relevant parties to the proceeding or the petitioner(s) should notify the presiding officer within five (5) days, describing the obstacles to the agreement.

7. If the request for access to SUNSI is denied by the NRC staff after a determination on standing, the NRC staff shall briefly state the reasons for the denial. Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information. The requester may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing, by filing a challenge within five (5) days of receipt of that determination with (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to § 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

[1] See footnote 4. While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] If a presiding officer has not yet been designated, the Chief Administrative Judge will issue such orders, or will appoint a presiding officer to do so.

[3] Parties/persons other than the requester and the NRC staff will be notified by the NRC staff of a favorable access determination (and may participate in the development of such a motion and protective order) if it concerns SUNSI and if the party/person's interest independent of the proceeding would be harmed by the release of the information (e.g., as with proprietary information).

In the same manner, a party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within five (5) days of the notification by the NRC staff of its grant of such a request.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[4]

8. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. A suggested schedule is provided as Attachment 1 to this order.

Dated at Rockville, Maryland, this 20th day of May 2008.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1.—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION (SUNSI)

Day	Event
0	Publication of [**Federal Register** notice/other notice of proposed action and opportunity for hearing], including order with instructions for access requests.
10	Deadline for submitting requests for access to SUNSI with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted.
[20, 30 or 60]	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	NRC staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information. If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need,'' ''need to know,'' or likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit. Note: Before the Office of Administration makes an adverse determination regarding access, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff determination either before the presiding officer or another designated officer.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A+3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A+28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A+53 (Contention receipt +25).	Answers to contentions whose development depends upon access to SUNSI.
A+60 (Answer receipt +7)	Petitioner/Intervenor reply to answers.
B	Decision on contention admission.

[4] As of October 15, 2007, the NRC's final ''E-Filing Rule'' became effective. See Use of Electronic Submissions in Agency Hearings (72 FR 49139; Aug. 28, 2007). Requesters should note that the filing requirements of that rule apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI requests submitted to the NRC staff under these procedures.

[FR Doc. E8–11724 Filed 5–23–08; 8:45 am]
BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57836; File No. SR–CBOE–2008–54]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Related to Sponsored Users

May 19, 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 May 12, 2008, Chicago Board Options Exchange, Incorporated (''CBOE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared substantially by CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE Rule 6.20A, *Sponsored Users,* to permit Sponsored User access to all products traded on CBOE. The text of the proposed rule change is available at *http://www.cboe.org/Legal,* the principal offices of the Exchange, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE is proposing to amend CBOE Rule 6.20A, *Sponsored Users,* which governs electronic access for the entry and execution of orders by Sponsored Users with authorized access and the applicable requirements that Sponsored Users and Sponsoring Members are required to satisfy in order to engage in a Sponsoring Member/Sponsored User relationship. Under the current Rule, the Sponsored User program is only applicable to CBOE's FLEX Hybrid Trading System (''FLEX'') and the CBOE Stock Exchange (''CBSX'') facility. Thus, currently a ''Sponsored User'' is defined as a person or entity that has entered into a sponsorship arrangement with a Sponsoring Member for purposes of receiving electronic access to FLEX and CBSX. CBOE is proposing to expand the rule to permit electronic access for the entry and execution of orders by Sponsored Users with authorized access to all other products traded on CBOE.

CBOE Rule 6.20A will apply to Sponsored Users with authorized access to all other products traded on CBOE in the same manner as it is currently applied to Sponsored Users with authorized access to FLEX and CBSX. Sponsored User access to CBOE will also be conditioned on the same requirements that are currently applied to Sponsored Users on FLEX and CBSX. Unlike the number of Sponsored Users for FLEX and CBSX, which can be unlimited, with respect to all other products trading on CBOE, this filing proposes that the number of Sponsored Users with such electronic access to CBOE be limited to a total of 15 persons/entities [3] (hereinafter referred to as ''Sponsored User Slots'').

Sponsored User applications for the CBOE Sponsored User Slots shall be submitted to the Exchange's Membership Department and will be processed in the order they are received on a time-stamped basis. Sponsored User applications may be submitted by hand-delivery, e-mail, or facsimile. For applications received via e-mail or facsimile, the time-stamp will be the time the e-mail/facsimile is received by the Membership Department. If there are more applicants than Sponsored User Slots, the Exchange will maintain a waitlist and use a First In, First Out (''FIFO'') method for filling the Sponsored User Slots. In the event a Sponsored User application is determined by the Membership Department to be incomplete,[4] the application will not be considered to have been submitted under the FIFO method until a completed application is submitted. The Exchange will issue a circular providing notice as to when the Exchange will begin accepting applications for the 15 Sponsored User Slots and will detail how the applications may be submitted to the Exchange's Membership Department. Lastly, the Exchange notes that persons (or entities) aggrieved in an economic sense by Exchange actions, including actions taken with respect to the Sponsored User Slots, may apply for an opportunity to be heard and have the complained-of action reviewed in accordance with Chapter XIX, Hearings and Review.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [5] in general and furthers the objectives of Section 6(b)(5) [6] in particular in that the proposal is designed to 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

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i)

[3] For purposes of CBOE Rule 6.20A, a ''Sponsored User'' would now be defined as a person or entity that has entered into a sponsorship arrangement with a Sponsoring Member for purposes of receiving electronic access to the facilities and products specified in the Rule (referred to as the ''Exchange System(s)''), which would now include the products traded on the FLEX Hybrid Trading System, CBOE and CBSX. *See* proposed changes to Rule 6.20A(a) and proposed Interpretation and Policy .01 to Rule 6.20A.

[4] For example, an application would be considered incomplete if a Sponsoring Member has not agreed to sponsor the Sponsored User applicant's electronic access to CBOE.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which CBOE consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2008–54 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2008–54. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–CBOE–2008–54 and should be submitted on or before June 17, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–11702 Filed 5–23–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57837; File No. SR–CBOE–2008–46]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related To the Hybrid Agency Liaison

May 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 May 15, 2008, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by CBOE. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify Rule 6.14, *Hybrid Agency Liaison (''HAL''),* so that the Exchange may determine on a class-by-class basis to permit electronic exposure of HAL orders to all CBOE members to give additional opportunities to provide the orders with the best price. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In classes where HAL is activated, HAL automatically upon receipt processes market and limit orders if: (i) The market orders or limit orders are marketable against the Exchange's disseminated quotation while that quotation is not at the national best bid or offer (''NBBO''); (ii) the limit orders would improve the Exchange's disseminated quotation and are marketable against quotations disseminated by other exchanges participating in the Intermarket Options Linkage (''Linkage''); and (iii) for Hybrid 3.0 classes, the limit orders would improve the Exchange's disseminated quotation, except when the disseminated quotation is represented by a manual quote, in which case the limit order will automatically route to the electronic book instead of being processed by HAL, and the manual quote will be cancelled.[5]

When these circumstances occur, orders that are received by HAL are immediately upon receipt electronically exposed to all Market-Makers appointed to the relevant option class, as well as all members acting as agent for orders at the top of the Exchange's book (''Qualifying Members'') in the relevant series.[6] At the conclusion of the HAL process:

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[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Rule 6.14(a).

[6] The orders are exposed for a period determined by the Exchange on a class-by-class basis, which period shall not exceed 1.5 seconds. If a Market-Maker or Qualifying Member (on behalf of the order it is representing) commits to trade with any portion of the order during the exposure period, then the exposure period will end, and an allocation period will begin. The allocation period

Continued

• The order will be filled in accordance with the allocation algorithm in effect for the class pursuant to Rule 6.45A, *Priority and Allocation of Equity Option Trades on the CBOE Hybrid System,* or 6.45B, *Priority and Allocation of Trades in Index Options and Options on ETFs on the CBOE Hybrid System,* subject to certain requirements. In particular, there is no participation entitlement applicable to exposed orders, and response sizes are limited to the size of the exposed order for allocation purposes; or

• If no responses are received or if there remains an unexecuted portion of a marketable order, then the remaining balance of the order will be routed through Linkage.[7]

If a marketable order is not executed via HAL, it is routed through Linkage to a competing exchange(s) even though there may be other CBOE members who would be willing to execute the order at the better price. Additionally, when an order is sent through Linkage, the other exchange charges an execution fee. The cost of sending the order through Linkage can be substantial, particularly with respect to other options exchanges that have adopted a maker-taker fee schedule.[8] To retain as much order flow as possible on CBOE and to help reduce costs associated with the number of orders sent through Linkage,[9] CBOE proposes to allow itself the flexibility to determine on a class-by-class basis to expose orders received by HAL to all members that have elected to receive HAL messages (not just Market-Makers appointed to the relevant option class and Qualifying Members), and to permit such members to respond to HAL on a proprietary or agency basis. This would provide for additional opportunities to provide orders with the best price on CBOE.

For such classes, each member that submits a response to trade with an order during the exposure or allocation periods would be entitled to receive an allocation of the order in accordance with the allocation algorithm in effect for the option class pursuant to Rule 6.45A or 6.45B, subject to certain requirements. As with the existing HAL allocation process, there would be no participation entitlement applicable to exposed orders, and response sizes would be limited to the size of the exposed order for allocation purposes. In addition, if the applicable allocation algorithm in effect for the option class is price-time or pro-rata, then any public customer priority overlay in effect for a class would not be applicable. The Exchange believes this condition is a reasonable modification designed to give market participants a more balanced opportunity to participate in an allocation. The Exchange also notes that, in accordance with the existing provisions of Rules 6.45A and 6.45B, there is no requirement that a public customer priority overlay be in effect if there is no participation entitlement.

Lastly, because all members would be permitted to respond on a proprietary or agency basis, the HAL provision that normally prohibits the dissemination of information regarding exposed orders to third parties would not apply.[10] The Exchange believes that permitting the dissemination of this information by members to third parties will assist in its efforts to provide additional opportunities for orders to receive executions at the NBBO on CBOE and reduce costs by reducing the number of Linkage orders sent to other exchanges.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[11] in general and furthers the objectives of Section 6(b)(5) of the Act[12] in particular in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the Exchange believes that the proposed change would give additional opportunities to provide orders executions at the NBBO on CBOE and reduce costs by reducing the number of Linkage orders sent to other exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

is determined by the Exchange on a class-by-class basis and, when combined with the designated exposure period (as opposed to an exposure period that is terminated early), shall not exceed a total of 3 seconds. *See* Rule 6.14(b).

[7] If the remaining order balance is for the account of a public customer and is marketable against another exchange that is a participant in Linkage, then HAL will route a Principal Acting as Agent Linkage Order (''P/A Order'') on behalf of the remaining order balance through the Linkage, and any resulting execution of the P/A Order will be allocated to that order. If the remaining order balance is marketable against another exchange that is a participant in Linkage but is *not* for the account of a public customer, then HAL will route a Principal Linkage Order (''P Order'') on behalf of the Remaining Order through the Linkage, and any resulting execution of the P Order will be allocated to the remaining order. In either situation above, if the Linkage order cannot be transmitted from the Exchange because the price of the Linkage order (or a better price) is no longer available on any market, then HAL will, pursuant to normal order allocation processing, execute the remaining order balance against the Exchange's existing quote (provided such execution would not cause a trade-through) or, if the Exchange's quote is inferior to the Exchange's best bid or offer at the time the order was received by HAL (''Exchange Initial BBO''), against the Market-Makers that constituted the Exchange Initial BBO at a price equal to the Exchange Initial BBO. If the remaining order is not marketable (either on CBOE or another exchange), it will be entered into the Hybrid book for dissemination. *See* Rule 6.14(b)(i)—(iii).

[8] Several options exchanges have adopted a fee structure in which firms receive a rebate for the execution of orders resting in the limit order book (*i.e.*, posting liquidity) and pay a fee for the execution of orders that trade against liquidity resting on the limit order book (*i.e.*, taking liquidity). Taker fees currently range up to $0.45 per contract and are charged without consideration of the order origin category, including public customer orders. In contrast, CBOE does not generally charge a fee for the execution of public customer orders that are routed directly to our market. The effective price paid by a customer purchasing an option can be considerably higher on an exchange that charges a taker fee. For example, a customer that enters a marketable limit order to buy 10 contracts for $0.10 would pay $100 on CBOE and $104.50 if executed on an exchange that charges a $0.45 taker fee (an effective 4.5% increase). Because orders cannot be executed at prices inferior to the NBBO, members are effectively forced to pay taker fees when an exchange with a taker fee structure is at the NBBO and the members' orders are directly routed to such an exchange or indirectly routed to such an exchange through Linkage (where the fees are passed through).

[9] Outbound Linkage costs are incurred by CBOE and its members. CBOE currently rebates DPM transaction fees generated from transactions against customer orders that underlie outbound P/A and P Orders (''CBOE Transactions''). In addition, when DPMs incur fees to execute P/A or P Orders at other exchanges (''Away Transactions''), those DPMs are credited an additional amount per contract to offset such fees. CBOE also credits DPMs an additional amount per contract on both CBOE Transactions and Away Transactions to offset the Sales Value Fee (which offsets fees payable to the Commission under Section 31 of the Act), the Options Clearing Corporation (''OCC'') per contract fee applicable to Market-Makers and specialists set forth on the OCC Schedule of Fees, and an estimated average clearing firm per contract fee. In the case of a P Order, the Exchange also passes through the total amount of the credits above to the member that originated the order underlying the P Order. *See* Section 21 of the CBOE Fees Schedule.

[10] This prohibition only deals with disseminating information to third parties after an order is exposed in HAL. *See* Rule 6.14.02. The Exchange notes that members remain subject to the requirements of Rule 4.18, *Prevention of the Misuse of Material, Nonpublic Information,* and Rule 8.91, *Limitations on Dealings of DPMs and Affiliated Persons of DPMs.*

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14]

Normally, a proposed rule change filed under 19b–4(f)(6) may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) [15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange believes that the expansion of HAL to permit all members to respond in the manner proposed will provide additional opportunities for orders to receive executions at the NBBO on CBOE and reduce costs by reducing the number of Linkage orders sent to other exchanges. The Exchange believes that the proposed rule change is non-controversial, does not raise any new, unique or substantive issues, and is essential for competitive purposes and to promote a free and open market for the benefit of investors. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative upon filing with the Commission.[16]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2008–46 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2008–46. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m.. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2008–46 and should be submitted on or before June 17, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–11703 Filed 5–23–08; 8:45 am]

BILLING CODE 8010–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to 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, or such shorter time as designated by the Commission. The Commission notes that the Exchange has satisfied the five-day pre-filing notice requirement.

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57828; File No. SR–ISE–2008–38]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Changes

May 15, 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 April 30, 2008, the International Securities Exchange, LLC (''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the ISE. The ISE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the ISE under Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend its Schedule of Fees to (1) adopt a tiered structure for the displayed market and (2) simplify the pricing structure for MidPoint Match executions. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

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 ISE 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 ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to (1) adopt a tiered structure for the displayed market and (2) simplify the pricing structure for MidPoint Match executions.

Effective May 1, 2008, the ISE proposes to increase the rebate paid to Equity Electronic Access Members (''Equity EAMs'') for posting liquidity in securities that trade at or above $1.00 on the ISE Stock Exchange's displayed market. Equity EAMs will receive an increased rebate of $0.0035 per share across all tapes when the monthly average daily volume (''ADV'') of executed maker shares is over five million. The first five million shares per day will continue to receive a rebate of $0.0032 per share. The taker price per share will remain at $0.0030 for all volume levels.

Additionally, the ISE proposes to simplify the fees for MidPoint Match by introducing a three-tiered structure with a lower starting level of $0.0015 per share for its initial pricing tier, which applies to members trading an ADV of up to one million shares. The second tier, for ADV between one million and three million shares, is $0.0010 per share. Once volume exceeds the three million share ADV threshold of the third tier, fees are adjusted retroactively so that a $0.0010 per share fees applies to all volume.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[5] in general, and furthers the objectives of Section 6(b)(4),[6] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among ISE members and other persons using ISE facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(2)[8] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–ISE–2008–38 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–ISE–2008–38. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. 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–ISE–2008–38 and should be submitted on or before June 17, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–11701 Filed 5–23–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57841; File No. SR–NYSE–2008–26]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Rule 412 To Conform to FINRA Incorporated Versions of NYSE Rule 412

May 20, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 2, 2008, the New York Stock Exchange LLC (''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

change as described in Items I and II below, which Items have been substantially prepared by the NYSE. The NYSE filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [2] and Rule 19b–4(f)(6) [3] thereunder so that the proposal was 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 NYSE proposes to amend NYSE Rule 412 (Customer Account Transfer Contracts) to make the time frames in the rules for validating or taking exception to an instruction to transfer a customer's securities account consistent with the time frames in the Automated Customer Account Transfer Service (ACATS) of the National Securities Clearing Corporation (''NSCC'') and to make the NYSE's version of Rule 412 consistent with the recently approved amendments filed by the Financial Industry Regulatory Authority, Inc. (''FINRA'') to its incorporated version of NYSE Rule 412.[4]

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 NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant parts of such statements.[5]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 30, 2007, NASD and NYSE Regulation, Inc. consolidated their member firm regulation operations into a combined organization, FINRA.[6] Pursuant to FINRA's new regulatory responsibilities, FINRA amended FINRA's incorporated NYSE Rule 412 (Customer Account Transfer Contracts) to make the time frames in the rule for validating or taking exception to an instruction to transfer a customer's securities account consistent with those of NSCC's ACATS.[7] In order to maintain Rule 412 as a Common Rule, the NYSE is proposing to amend its version of Rule 412 to conform it to the recently approved changes to FINRA's incorporated version of NYSE Rule 412.

2. Statutory Basis

The NYSE believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act,[8] in that it is designed to prevent fraudulent and manipulative practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed (*i.e.*, May 2, 2008), or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2008–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2008–26. 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

[2] 15 U.S.C. 78s(b)(3)(A).

[3] 17 CFR 240.19b–4(f)(6).

[4] *Supra* note 5 and accompanying text.

[5] The Commission has modified the text of the summaries prepared by the NYSE.

[6] Pursuant to Rule 17d–2 under the Exchange Act, NYSE, NYSE Regulation, Inc., and NASD entered into an agreement (the ''17d–2 Agreement'') to reduce regulatory duplication for firms that are members of FINRA and also members of NYSE on or after July 30, 2007 (''Dual Members''), by allocating to FINRA certain regulatory responsibilities for selected NYSE rules. The 17d–2 Agreement includes a list of all of those rules (''Common Rules'') for which FINRA has assumed regulatory responsibilities. *See* Securities and Exchange Act Release No. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (Notice of Filing and Order Approving and Declaring Effective a Plan for the Allocation of Regulatory Responsibilities). The Common Rules are NYSE rules that FINRA has incorporated into its rulebook. Securities Exchange Act Release No. 56417 (July 26, 2007), 72 FR 42166 (August 1, 2007) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Incorporate Certain NYSE Rules Relating to Member Firm Conduct) [SR–NASD–2007–054]. Paragraph 2(b) of the 17d–2 Agreement sets forth procedures regarding proposed changes by either NYSE or FINRA to the substance of any of the Common Rules.

[7] Securities and Exchange Act Release No. 56677 (October 19, 2007), 72 FR 60699 (October 25, 2007) [SR–FINRA–2007–05].

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). The Commission is waiving the five-day pre-filing notice requirement in order for the NYSE to ensure that Rule 412 maintains its status as a Common Rule under the 17d–2 Agreement.

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. The text of the proposed rule change is available at the NYSE, the Commission's Public Reference Room, and *http://apps.nyse.com/commdata/pub19b4.nsf/docs/E40ACA575EFD517085257420005CC603/$FILE/NYSE–2008–26.pdf.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2008–26 and should be submitted on or before June 17, 2008.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–11723 Filed 5–23–08; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57845; File No. SR–NYSE–2008–32]

Self-Regulatory Organizations; the New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, and Amendment No. 1 Thereto, To Amend NYSE Rule 123A.30 To Permit Certain Convert-and-Parity Orders To Trade on Parity With Other Limit Orders, Including Orders Entered Through Its Designated Order Turnaround System®

May 21, 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 April 24, 2008, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. Originally, NYSE filed the proposed rule change pursuant to Section 19(b)(2) of the Act.[3] On May 16, 2008, however, NYSE filed Amendment No. 1 to the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6) thereunder.[5] Accordingly, the proposal became effective upon the filing of Amendment No. 1 with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 123A.30 to permit certain convert-and-parity (''CAP'') orders to trade on parity with other limit orders, including orders entered through NYSE's Designated Order Turnaround (''DOT'') system®. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This rule filing effects an amendment to NYSE Rule 123A.30, which, together with NYSE Rule 1000, governs the automatic execution of CAP orders. The amendment permits passively converted CAP orders—that is, CAP orders that are converted by the specialist for the purpose of bidding or offering—to trade on parity with other limit orders, including DOT system orders that were on NYSE's Display Book® at the time of the conversion and could trade on the same side of the market and at the same price as the converted CAP orders. Before this amendment, CAP orders were placed in the same parity group as DOT orders for purposes of parity allocations among all orders upon execution. Within that parity group, those DOT orders had priority over the converted CAP orders.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6). Amendment No. 1 superseded the original filing in its entirety.

a. Background

The Exchange states that CAP orders are not actually live orders, but rather are memoranda of orders that can be made live either automatically via an electing trade (a trade at a price that automatically triggers the CAP order to become a live order and immediately execute at the triggering price) or manually via conversion by the specialist. In the latter situation, the specialist converts the CAP into a limit order, and bids or offers on behalf of that order (referred to as a ''passive conversion''). Thereafter, a trade may take place against some or all of the converted CAP order; any portions that are not executed may be ''unconverted'' and revert to their status as CAP orders.

The Exchange states that, although they are not live orders, CAP orders nevertheless represent public customer interest in which the customer has consented to trading on parity with the specialist when they are either elected or converted. Because CAP orders are linked, either through election or conversion, to other customer interest at a given price, CAP orders give customers a way to participate in trades—that is, to ''go along'' with other interest at a price—but protect them from either initiating a trade or constituting 100% of one side of a trade.

The Exchange states that, at the time that specialists were given the ability to passively convert CAP orders as agents for customers, the Commission was concerned that specialists not have unfettered discretion in representing those orders; although the Commission recognized that the specialist could exercise some degree of control over the timing and size of the conversions, the Commission insisted on, and the Exchange agreed to implement, certain restrictions that would prevent the specialist from misusing CAP orders to drive the price of a security up or down inappropriately.[6] Among these restrictions was the requirement that passively converted CAP orders could not be executed before ''conventional'' limit orders, *e.g.*, DOT orders, that were on the Display Book at the time of the conversion and could trade at the same price and on the same side as the converted CAP order.

[6] *See* Securities Exchange Act Release No. 24505 (May 22, 1987), 52 FR 20484 (June 1, 1987) (SR–NYSE–1985–01).

b. Amendment to NYSE Rule 123A.30

The instant proposal would change the treatment of passively converted CAP orders to permit the CAP orders to trade as a group on parity with other agency interest, including same-side same-price DOT orders (*i.e.*, DOT orders that can trade on the same side of the market and at the same price as the CAP orders). The Exchange states that the proposed rule change is necessitated by other changes that the Exchange is making that will permit market participants to enter non-displayed reserve interest directly into the Display Book.

As initially implemented, under Rule 123A.30, passively converted CAP orders were combined with DOT orders for purposes of determining the overall parity allocation in any trade; this so-called ''DOT group'' was treated as a single agent in the parity divisor. Thus, for example, in an execution involving two brokers' orders, DOT orders, and passively converted CAP orders, all on parity, the DOT group and the brokers would each be allocated one-third of the traded shares, even though the DOT group contained two different customer groups (conventional limit orders and passively converted CAP orders). The Exchange's system would then internally allocate shares within the DOT group in time priority. As a consequence of this allocation methodology, passively converted CAP orders did not receive allocations until all DOT orders that were on the Display Book at the time of the conversion were satisfied in full.

As noted above, NYSE implemented foundational changes to its systems that permit customers to enter undisplayed reserve orders from off-Floor directly into the Display Book through DOT (previously, only Floor brokers could enter undisplayed reserve interest on behalf of customers).[7] Such off-Floor reserve interest will be included in the DOT group for purposes of parity allocations when there is a trade and, despite being non-displayed, would within that DOT group, currently be entitled to priority over passively converted CAP orders.

NYSE has determined that it is not feasible at this time to have the system differentiate between displayed DOT interest and non-displayed DOT interest when doing parity allocations. This could result in two unintended consequences vis-à-vis passively converted CAP orders: First, the changes will result in non-displayed interest (DOT reserves) taking priority over displayed interest (passively converted CAP orders); and second, if there is substantial interest in reserve, the change will make it difficult (if not impossible) for passively converted CAP orders to receive an execution, since all displayed and non-displayed DOT interest would need to be satisfied first.

The Exchange has further determined that it is not feasible to undo the various foundational programming changes necessary to implement off-Floor reserves in the near future. To address these issues, the Exchange is proposing to amend NYSE Rule 123A.30 to change the parity allocation methodology. Under the proposed rule change, passively converted CAP orders would become their own parity group for purposes of the parity divisor. For example, in the execution described above, involving two brokers, DOT orders and passively converted CAP orders, each group would receive one-fourth of the executed shares, instead of the DOT orders and CAP orders sharing a one-third allocation.

The Exchange believes that the instant proposal is appropriate because fundamental changes in the market—both in terms of market structure and in terms of the behavior of market participants—have made it significantly less likely that specialists could or would use passively converted CAP orders to engage in manipulative or destabilizing conduct.

The Exchange states that, among other things, the restrictions on passive CAP conversions were implemented at a time when NYSE enjoyed a market share in excess of 80% of transactions in its listed securities. Today, NYSE market share is approximately half that amount. The Exchange states that, where the specialist once had substantial influence over the price of a stock, and could extend his influence further through the misuse of CAP orders, the specialist today has significantly less influence over the price of a stock.

According to the Exchange, market share aside, the process of converting CAP orders also impedes the specialist's ability in an automated market to misuse CAP orders to drive the market. Passive conversions must be conducted by the specialist manually. The Exchange states that, because of the increased automation of modern markets, and the resulting exponential increase in the pace of trading over years past, the delay inherent in a manual process further erodes the possibility that a specialist could realistically use the passive conversion of CAP orders to manipulate the market.

The Exchange believes that a specialist's ability to drive the market through CAP conversions is further diminished simply by the fact that the number of customers using CAP orders has dropped off substantially. For example, during March 2008, there was an average of 2,125 conversions per day across the entire NYSE Floor, as compared to 4,401 conversions per day during October 2007 and 6,762 conversions during June 2007. More tellingly, the average number of passive conversions during 2008 (an average of 2,484 conversions per day, year-to-date) represented only .0004% of quotes initiated per day by specialists (''s-quotes'') during the same period,[8] and .000045% of all quotes disseminated per day overall.[9] Therefore, the Exchange believes that the likelihood that a specialist could misuse a passive conversion to affect prices is small.

According to the Exchange, the sharp reduction in the number of CAP orders reflects the increased popularity of reserve orders, which permit customers to achieve the same go-along benefits of CAP orders, but retain greater control of the pricing of their orders. Significantly, despite the fact that reserve interest and CAP orders can perform similar functions, they receive disparate parity treatment: reserve interest trades on parity,[10] while CAP interest does not.

Finally, the Exchange states that it is also important to keep in mind that, under the current scheme, CAP orders, although they represent public customer orders, are penalized in their parity treatment for no other reason than that they have been entrusted to the specialist for execution. When the specialist had outsized influence in the market, this was arguably appropriate because, in return for inferior parity treatment, CAP orders received the benefit of the specialist's knowledge of the market and expertise on the optimal time to bid or offer. But in today's environment, where market fragmentation has reduced the specialist's ability to know the overall market, the Exchange believes this trade-off no longer makes sense. Accordingly, the proposed rule change would eliminate this disadvantage to CAP orders. At the same time, the proposal would not eliminate all disadvantages to CAP order relative to e-Quotes: all passively converted CAP orders would share one slice of the allocation on an execution, whereas

[7] *See* Securities Exchange Act Release Nos. 57792 (May 7, 2008), 73 FR 27601 (SR–NYSE–2008–36) and 57688 (April 18, 2008), 73 FR 22194 (SR–NYSE–2008–30).

[8] Specialists have averaged 5,268,000 s-quotes per day during 2008.

[9] NYSE has disseminated an average of 54,201,000 quotes per day during 2008.

[10] *See* NYSE Rule 70.20.

brokers using e-Quotes each take their own slice. Thus, the parity divisor is being increased by one, though only on executions where: (1) There are passively converted CAP orders being bid or offered; and (2) the execution size is in an amount less than necessary to completely fill all orders at that price. The Exchange states that, because this will be the case only a very few times per day (fewer than once per day per stock, on average), it does not believe that the potential harm to DOT orders is significant.

In short, given the ways in which liquidity has been fractured among markets, the sharply reduced number of conversions today, the disparate treatment of passively converted CAP orders and reserve interest, and the automation of markets making manual trades commensurately more difficult, the Exchange believes that: (1) The harm of manipulation-by-passive-conversion that NYSE set out to protect against in 1985 is not present today; and (2) when weighed against the fact that CAP orders are agency orders on behalf of public customers just as DOT orders are, it does not seem appropriate to continue to discriminate against the passively converted CAP orders by forcing them to step behind the DOT orders.

For these reasons, NYSE proposes to eliminate the restriction on giving passively converted CAP orders parity with other limit orders, including resting DOT orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. As described more fully above, the proposed rule change is intended to ensure fair treatment of displayed public orders (passively converted CAP orders) in connection with changes being made to other Exchange systems to permit customers to directly place non-displayed interest into the Display Book. In addition, the Exchange believes that in view of both the substantial changes to the marketplace and the Exchange since the original rule was adopted, and the paucity of affected orders, the proposed change does not substantially affect the public interest or unreasonably disadvantage another group of public customers. Conversely, without the proposed rule change, the Exchange states that there is a substantial risk that a group of public customers would be shut out of the market entirely, or would receive an inferior treatment vis-à-vis non-displayed interest, which the Exchange believes is contrary to the policy of the Commission regarding rewarding customers willing to display liquidity in the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange states that written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Commission notes NYSE's representation regarding its determination that it is not feasible at this time to have the Exchange's system differentiate between displayed DOT interest and non-displayed DOT interest when doing parity allocations. Accordingly, given the fact that CAP orders represent customer orders, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[15]

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.[16]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2008–32 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2008–32. 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

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with 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, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78s(b)(3)(C). For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposal, the Commission considers the period to commence on May 16, 2008, the date on which the Exchange submitted Amendment No. 1.

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2008–32 and should be submitted on or before June 17, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–11808 Filed 5–23–08; 8:45 am]

BILLING CODE 8010–01–P

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11255]

Kentucky Disaster #KY–00016

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Kentucky (FEMA–1757–DR), dated 05/19/2008.

Incident: Severe Storms, Tornadoes, Flooding, Mudslides, and Landslides.

Incident Period: 04/03/2008 through 04/04/2008.

EFFECTIVE DATE: 05/19/2008.

Physical Loan Application Deadline Date: 07/18/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/19/2008, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Anderson, Crittenden, Fleming, Fulton, Hancock, Hopkins, Lewis, Livingston, Mclean, Nicholas, Ohio, Spencer, Woodford.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11255.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–11747 Filed 5–23–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11242 and #11243]

Maine Disaster Number ME–00011

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Maine (FEMA–1755–DR), dated 05/09/2008.

Incident: Severe Storms and Flooding.

Incident Period: 04/28/2008 and continuing.

DATES: *Effective Date:* 05/16/2008.

Physical Loan Application Deadline Date: 07/08/2008.

EIDL Loan Application Deadline Date: 02/09/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Maine, dated 05/09/2008 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans):

Penobscot.

Contiguous Counties: (Economic Injury Loans Only): Maine:

Hancock, Waldo.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–11712 Filed 5–23–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11254]

Maine Disaster #ME–00012

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Maine (FEMA–1755–DR), dated 05/14/2008.

Incident: Severe Storms and Flooding.

Incident Period: 04/28/2008 and continuing.

EFFECTIVE DATE: 05/14/2008.

Physical Loan Application Deadline Date: 07/14/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/14/2008, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Aroostook, Knox, Lincoln, Piscataquis, Somerset, Waldo.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11254.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E8–11757 Filed 5–23–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11252 and #11253]

North Carolina Disaster #NC–00012

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of North Carolina dated 05/20/2008.

Incident: Severe Storms and Tornadoes.

Incident Period: 05/11/2008.

EFFECTIVE DATE: 05/20/2008.

Physical Loan Application Deadline Date: 07/21/2008.

Economic Injury (Eidl) Loan Application Deadline Date: 02/20/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Bertie, Onslow.

Contiguous Counties:

North Carolina:

Carteret, Chowan, Duplin, Halifax, Hertford, Jones, Martin, Northampton, Pender, Washington.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	5.375
Homeowners Without Credit Available Elsewhere	2.687
Businesses With Credit Available Elsewhere	8.000
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11252 C and for economic injury is 11253 0.

The State which received an EIDL Declaration # is North Carolina.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: May 20, 2008.

Steven C. Preston,

Administrator.

[FR Doc. E8–11760 Filed 5–23–08; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Public Meetings on a Comprehensive Review of Small Business Size Standards

AGENCY: U.S. Small Business Administration.

ACTION: Notice of public meetings.

SUMMARY: The U.S. Small Business Administration (SBA) will hold two public meetings to inform the public about one of the Agency's top priorities—a comprehensive review of all of its small business size standards. Of fundamental importance in assisting the nation's small businesses is appropriately defining which business entities qualify as small businesses. SBA is responsible to the public for ensuring that size standards levels are sound and rational. Therefore, SBA is undertaking a 2-year across-the-board examination of its size standards. This notice discusses SBA's reasons for and its approach to the comprehensive review and provides information about registering to attend a public meeting.

DATES: The size standards meetings will be held on June 3, 2008, at 10 a.m. Eastern Time and 2 p.m. Eastern Time in Washington, DC. Attendees must pre-register by May 30, 2008.

ADDRESSES: 1. The size standards meeting address is U.S. Small Business Administration, Eisenhower Conference Room, 409 Third Street, SW., Washington, DC 20416.

2. Send pre-registration requests to attend to SBA's Office of Size Standards at *sizestandards@sba.gov* or call (202) 205–6618.

FOR FURTHER INFORMATION CONTACT: Fay E. Ott, Associate Administrator for Government Contracting and Business Development, at (202) 205–6459, *sizestandards@sba.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

To carry out its mission of assisting small businesses, SBA must identify which businesses are small and, therefore, eligible for Federal assistance programs intended for small businesses. Congress granted SBA broad discretion in establishing detailed small business definitions, or size standards (15 U.S.C. 632(a)(2)). The Small Business Act generally defines a small business as one that is independently owned and operated, not dominant in its field of operation, and meets a numerical size standard established by the SBA Administrator. SBA's size standards are promulgated in 13 CFR Part 121, ''Small Business Size Regulations,'' and may be found at *http://www.sba.gov/size*.

Over the years, SBA has reviewed size standards on an ad hoc basis. That is, SBA has reviewed specific industries that it believed warranted modification either in response to requests from the public or a Federal agency or through its own independent analysis. In addition, SBA has periodically increased the monetary-based size standards to keep them in line with inflation between individual adjustments. The last increase for inflation was on December 6, 2005 (70 FR 72577).

SBA has undertaken a few broad reviews of size standards in the past. With the inception of the Agency in 1953, SBA examined the initial configuration of size standards and established the basic framework for today's size standards. The last comprehensive review of size standards was in the early 1980s. That review resulted in several important changes. The two most important of those were (1) replacing two sets of size standards, one for procurement programs and one for financial programs, with a single set for all programs and (2) formalizing the methodology for evaluating size standards. In 2004, SBA proposed to restructure and simplify size standards

by determining the size of a small business based only on number of employees and reducing the number of different size standards levels (69 FR 13130, March 19, 2004). That effort received mixed support from the public and was subsequently withdrawn (69 FR 39874, July 1, 2004).

SBA is concerned that since the last comprehensive size standards review, not all of its size standards may now adequately define small businesses in the U.S. economy, which has seen industry consolidations, technological advances, emerging new industries, shifting societal preferences, and other significant industrial changes. SBA's approach to scrutinizing the limited number of specific industries during a year, while worthwhile, leaves unexamined many deserving industries for updating and may create over time a set of illogical size standards. Accordingly, SBA has initiated this across-the-board review of all size standards, and will proceed over the next two years with this examination to ensure that the established levels reflect today's small business segment of the various industries.

Beginning later this year, SBA will start publishing a series of proposed rules to update specific size standards; in two years this review will culminate in the complete evaluation of all size standards. SBA will organize this review by examining a group of industries within the Sectors of the North American Industry Classification System (NAICS). A Sector is a group of related industries, such as retail trade, manufacturing, construction, etc. Upon completion of an analysis of the industries within a Sector, SBA will publish a proposed rule for those industries where its assessment supports changing the current size standards.

SBA believes that a size standard review spread over time is a more manageable and expeditious process than attempting to update all size standards at one time. First, SBA is able to begin the review much sooner rather than wait until it completes an analysis of more than 1,100 industries. Second, the public can focus on and limit their comments to a limited number of related size standard revisions in SBA's proposal. Similarly, evaluating fewer and closely related comments enables SBA to understand and better consider the issues and concerns raised by the public.

The table below lists order of the size standards comprehensive review by NAICS Sector:

NAICS sector	Title	Number of industries
44–45	Retail Trade	75
72	Accommodations and Food Services	15
81	Other Services	49
54	Professional, Scientific and Technical Services	48
51	Information	32
61	Education	17
53	Real Estate and Rental and Leasing	24
71	Arts, Entertainment and Recreation	25
62	Health Care and Social Assistance	62
42	Wholesale Trade	71
56	Administrative Support and Waste Management	44
23	Construction	31
52	Finance and Investment	41
11	Agriculture	64
49	Transportation and Warehousing	57
55	Management of Companies	3
22	Utilities	10
21	Mining	29
31–33	Manufacturing	472

SBA considered several criteria in deciding the order of the NAICS Sectors. Priority was given to Sectors that have had fewer size standard revisions over the past 20 years, less variation of size standards within the Sector, a lower share of Federal contracts awarded to small businesses, and a higher quality of industry data. SBA decided to conduct the review for the Manufacturing Sector last because of the time needed to evaluate the large number of industries.

SBA encourages the public's participation in the process of updating its size standards. As discussed above, a proposed rule will be developed for each NAICS Sector over the next two years. Each proposed rule will explain how SBA analyzes an industry size standard, the latest data on an industry, and the basis for its decision to either retain or revise the current size standard. The public will have an opportunity to comment on SBA's analysis. SBA will carefully consider the public's comments on its proposals before making a final decision. The outcome of this comprehensive review will produce a more consistent, supportable, and equitable set of size standards designed to achieve SBA's mission of assisting the small business community.

II. Public Meetings

SBA will discuss in greater detail its approach to a comprehensive review of size standards at two public meetings and provide the attendees time to ask questions or provide advice on the size standards review. The public meetings will be held at 10 a.m. and 2 p.m. Eastern Time on June 3, 2008.

Location	Address	Registration closing date
Washington, DC	U.S. Small Business Administration, 409 Third Street, SW., 2nd Floor Eisenhower Conference Room, Washington, DC 20416.	May 30, 2008.

To help focus the discussions on common areas of interest for the attendees, it is requested that registrants sign-up for the public meetings according the type of size standard of most interest to them, as follows:

10 a.m.—Industries with receipts-based size standards (generally, the construction, information, retail trade, and services industries).

2 p.m.—Industries with employee-based size standards (generally, the manufacturing, mining, and wholesale trade industries).

III. Registration and Attendance

SBA respectfully requests that anyone interested in attending one of the public meetings pre-register in advance with SBA. In addition, because SBA only has space for up to 150 attendees per meeting, we request that each organization register only one or two representatives. Registration requests should be received by May 30, 2008. Please contact the Office of Size Standards at *sizestandards@sba.gov* or by calling (202) 205–6618. Please provide the following information: Name, Title, Organization Affiliation, Address, Telephone Number, E-mail Address, and Fax Number. SBA will attempt to accommodate all interested parties who wish to be heard. Based on the number of registrants it may be necessary to impose time limits to ensure that everyone who wishes to be heard has an opportunity to do so.

Please plan to arrive early. Upon arrival at SBA Headquarters, you must sign-in and pick-up a building pass at the Information Center located in the lobby. Afterwards, you may proceed through the security check and to the conference room on the 2nd floor.

Authority: 15 U.S.C. 634.

Fay E. Ott,

Associate Administrator for Government Contracting and Business Development.

[FR Doc. E8–11763 Filed 5–23–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 6235]

60-Day Notice of Proposed Information Collection: DS Form 4502, DS Form 7003, DS Form 7004, Fulbright Teacher Exchange Program Application Package, OMB No.1405–0114

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Fulbright Teacher Exchange Program Application Package.
- *OMB Control Number:* 1405–0114.
- *Type of Request:* Revision of a currently approved collection.
- *Originating Office:* Office of Global Educational Programs (ECA/A/S).
- *Form Number:* DS–4502, DS–7003, DS–7004.
- *Respondents:* Educators desiring to participate in the Fulbright Teacher Exchange Program and/or host and international participant.
- *Estimated Number of Respondents:*
  DS–4502 (U.S. Application)—800.
  DS–7003 (International Application)—300.
  DS–7004 (Hosting Application)—100.
- *Estimated Number of Responses:*
  DS–4502 (U.S. Application)—800.
  DS–7003 (International Application)—300.
  DS–7004 (Hosting Application)—100.
- *Average Hours per Response:*
  DS–4502 (U.S. Application)—2 hours.
  DS–7003 (International Application)—2 hours.
  DS–7004 (Hosting Application)—1.5 hours.
- *Total Estimated Burden:* 2350 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: The Department will accept comments from the public up to 60 days from *May 27, 2008*.

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

- *E-mail: ChagnonRX@state.gov.*
- *Mail (paper, disk, or CD–ROM submissions):* Teacher Exchange Branch (ECA/A/S/X), Department of State, SA–44, Room 349, 301 Fourth Street, SW., Washington, DC 20547.
- *Fax:* 202.453.8890.
- *Hand Delivery or Courier:* Same as mail address.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Ruta Chagnon, Program Officer (ECA/A/S/X); Department of State, SA–44, Room 349, 301 Fourth Street, SW., Washington, DC 20547, who may be reached on 202.453.8645 or at *ChagnonRX@state.gov*.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection

Under the Mutual Educational and Cultural Exchange (Fulbright-Hays) Act of 1961, as amended, the Fulbright Teacher Exchange Program offers academic year exchanges and seminar opportunities to U.S. educators. The data collected is used to determine whether prospective candidates are qualified for participation in and/or eligible to host international participants of the program.

Methodology

Applicants submit either a paper or electronic application to ECA. The receiving office enters the data for retention and program use as appropriate.

Dated: April 30, 2008.

Sheldon Yuspeh,

Executive Director, ECA/IIP, Department of State.

[FR Doc. E8–11766 Filed 5–23–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6234]

In the Matter of the Amended Designations of Islamic Jihad Group (IJG), a.k.a. Jama'at al-Jihad, a.k.a. the Libyan Society, a.k.a. the Kazakh Jama'at, a.k.a. the Jamaat Mojahedin, a.k.a. Jamiyat, a.k.a. Jamiat al-Jihad al-Islami, a.k.a. Dzhamaat Modzhakhedov, a.k.a. Islamic Jihad Group of Uzbekistan, a.k.a. al-Djihad al-Islami as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act and Pursuant to Section 1(b) of Executive Order 13224

Based upon a review of the administrative record assembled in this matter, and in consultation with the Attorney General and the Secretary of the Treasury, I have concluded that there is a sufficient factual basis to find that the Islamic Jihad Group is now known as Islamic Jihad Union (IJU), a.k.a. Islomiy Jihod Ittihodi, and that the relevant circumstances described in Section 219(a)(1) of the Immigration and Nationality Act, as amended (the ''INA'') (8 U.S.C. 1189(a)(1)), and in Section 1(b) of Executive Order 13224, as amended (''E.O. 13224''), still exist with respect to that organization.

Therefore, I hereby further amend the designation of that organization as a foreign terrorist organization, pursuant to Section 219(a)(4)(B) of the INA (8 U.S.C. 1189(a)(4)(B)), and further amend the 2005 designation of that organization pursuant to Section 1(b) of E.O. 13224, to include the following new names: Islamic Jihad Union (IJU), a.k.a Islomiy Jihod Ittihodi, a.k.a. Ittihad al-Jihad al-Islami.

Consistent with the determination in section 10 of E.O. 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

Dated: April 29, 2008.

Condoleezza Rice,

Secretary of State, Department of State.

[FR Doc. E8–11772 Filed 5–23–08; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 6236]

Culturally Significant Objects Imported for Exhibition Determinations: ''Sur Le Motif: Painting in Nature Around 1800'' and Additional Art Objects From the Netherlands

Summary: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Sur Le Motif: Painting in Nature Around 1800'' to be displayed at The J. Paul Getty Museum, Los Angeles, and additional objects to be displayed in the Museum's permanent collection, imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit and additional objects at The J. Paul Getty Museum, Los Angeles, California, from on or about June 16, 2008, until on or about May 31, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: May 16, 2008.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–11769 Filed 5–23–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2008–0107, Notice 1]

Spyker Automobielen B.V.; Receipt of Application for Limited Extension of Temporary Exemption From Certain Requirements of FMVSS No. 208

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of receipt of petition for limited extension of a Temporary Exemption from provisions of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*.

SUMMARY: In accordance with the procedures of 49 CFR Part 555, Spyker Automobielen B.V. (''Spyker'') has applied for a limited extension of a previously received temporary exemption from certain requirements of FMVSS No. 208, *Occupant Crash Protection*, for the Spyker C8 vehicle line. Spyker requests extension of its temporary exemption for certain advanced air bag requirements. The basis of the application is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

NHTSA is publishing this notice of receipt of the application in accordance with the requirements of 49 U.S.C. 30113(b)(2), and has made no judgment on the merits of the application.

DATES: You should submit your comments not later than June 26, 2008.

Comments: We invite you to submit comments on the application described below. You may submit comments identified by docket number in the heading of this notice by any of the following methods:

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

Instructions: All submissions must include the agency name and docket number. Note that all comments

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

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: For access to the docket in order to read background documents or comments received, go to *http://www.regulations.gov* at any time, or to M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20950, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

FOR FURTHER INFORMATION CONTACT: Sarah Alves, Office of the Chief Counsel, NCC–112, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Phone: 202–366–2992; Fax: 202–366–3820; E-Mail: *sarah.alves@dot.gov*.

Discussion

I. Advanced Air Bag Requirements and Small Volume Manufacturers

In 2000, NHTSA upgraded the requirements for air bags in passenger cars and light trucks, requiring what are commonly known as ''advanced air bags.'' [1] The upgrade was designed to meet the goals of improving protection for occupants of all sizes, belted and unbelted, in moderate-to-high-speed crashes, and of minimizing the risks posed by air bags to infants, children, and other occupants, especially in low-speed crashes.

The advanced air bag requirements were a culmination of a comprehensive plan that the agency announced in 1996 to address the adverse effects of air bags. This plan also included an extensive consumer education program to encourage the placement of children in rear seats. The new requirements were phased in beginning with the 2004 model year.

Small volume manufacturers were not subject to the advanced air bag requirements until September 1, 2006, but their efforts to bring their respective vehicles into compliance with these requirements began several years earlier. However, because the new requirements were challenging, major air bag suppliers concentrated their efforts on working with large volume manufacturers, and thus, until recently, small volume manufacturers had limited access to advanced air bag technology. Because of the nature of the requirements for protecting out-of-position occupants, ''off-the-shelf'' systems could not be readily adopted. Further complicating matters, because small volume manufacturers build so few vehicles, the costs of developing custom air bag systems compared to potential benefits discouraged some air bag suppliers from working with small volume manufacturers.

The agency has carefully tracked occupant fatalities resulting from air bag deployment. Our data indicate that the agency's efforts in the area of consumer education and manufacturers' providing depowered air bags were successful in reducing air bag fatalities even before advanced air bag requirements were implemented.

As always, we are concerned about the potential safety implication of any temporary exemptions granted by this agency. In the present case, we are seeking comments on a petition for a limited extension of a temporary exemption for certain advanced air bag requirements submitted by a manufacturer of high-performance sports cars.

II. Overview of Petition for Economic Hardship Exemption

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR part 555, Spyker has petitioned the agency for a limited extension of a temporary exemption from certain requirements of FMVSS No. 208. The basis for the application is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. The requested exemption would apply to the Spyker C8 vehicle line and would extend a portion of the original exemption for a period of 30 months beginning on June 15, 2008, ending on December 15, 2010. The requested extension would apply to certain advanced air bag requirements, specifically the requirements in S19, S21, S23, and S25. A copy of the petition [2] is available for review and has been placed in the docket of this notice.

III. Statutory Background for Economic Hardship Exemption

A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production did not exceed 10,000 vehicles, as determined by the NHTSA Administrator (49 U.S.C. 30113).

In determining whether a manufacturer of a vehicle meets that criterion, NHTSA considers whether a second vehicle manufacturer also might be deemed the manufacturer of that vehicle. The statutory provisions governing motor vehicle safety (49 U.S.C. Chapter 301) do not include any provision indicating that a manufacturer might have substantial responsibility as manufacturer of a vehicle simply because it owns or controls a second manufacturer that assembled that vehicle. However, the agency considers the statutory definition of ''manufacturer'' (49 U.S.C. 30102(a)(5)) to be sufficiently broad to include sponsors, depending on the circumstances. Thus, NHTSA has stated that a manufacturer may be deemed to be a sponsor and thus a manufacturer of a vehicle assembled by a second manufacturer if the first manufacturer had a substantial role in the development and manufacturing process of that vehicle.

IV. Petition

Background. A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production does not exceed 10,000, as determined by the NHTSA Administrator (15 U.S.C. 1410(d)(1)). Spyker manufactured 94 automobiles in 2006 and estimated a total production of 106 automobiles in 2007. Sixty Spyker automobiles were imported into the U.S. in 2006, and Spyker projects that U.S. imports will total 70 Spyker

[1] *See* 65 FR 30680 (May 12, 2000).

[2] The company requested confidential treatment under 49 CFR part 512 for certain business and financial information submitted as part of its petition for temporary exemption. Accordingly, the information placed in the docket does not contain such information that the agency has determined to be confidential.

automobiles in 2007. Spyker is a wholly owned subsidiary of Spyker Cars NV, a publicly traded Dutch company. Spyker stated that it is unaware of any other automobile manufacturer having an ownership interest in Spyker.[3] Moreover, Spyker stated that Spyker Cars NV has no ownership interest in any other vehicle manufacturer, and is not under any common control with another automobile manufacturer.

In July 2005, NHTSA granted Spyker a three-year hardship exemption from the ''basic'' air bag requirements and advanced air bag provisions of FMVSS No. 208 (S4.1.5.3; S14), and Part 581, expiring on June 15, 2008 (70 FR 39007; July 6, 2005). In this same grant, NHTSA also exempted Spyker from S7 of FMVSS No. 108, for the first 10 Spyker C8 vehicles imported into the United States.

Requested exemption. Spyker has applied for a limited extension of that exemption. Spyker requested an additional 30 months for the exemption from the child and 5th percentile adult female driver out-of-position portions of the advanced air bag provisions of FMVSS No. 208 (S19, S21, S23, and S25).[4] Spyker's current exemption extends until June 15, 2008, and Spyker requested a two-and-a-half year extension that would exempt Spyker's C8 vehicle line from the listed advanced air bag requirements through December 15, 2010.[5]

Economic hardship. Spyker stated that its previously established financial hardship[6] continues, in part due to the start-up nature of the company. Specifically, Spyker's financial information submission showed a net operating loss of 13,000,000 Euros ($16,900,000) from 2004 to 2006. Spyker projected a further loss in 2007 of 6,500,000 Euros ($8,450,000).[7] Moreover, based on 2008–2010 projections, Spyker estimated that if the limited extension is denied, Spyker will bear a loss of over 2,000,000 Euros ($2,600,000) during that time. Spyker also stated that the loss of sales in the U.S. that would result if the limited extension is denied could not be made up in the rest of the world because the U.S. is the largest and most important market for the vehicle. Spyker argued that such consequences demonstrate ''substantial economic hardship'' within the meaning of 49 U.S.C. 30113(b)(3)(B)(i).

Spyker recently submitted to NHTSA a supplement to their petition because Spyker recently updated its accounts for 2007. Spyker stated in its supplement to its petition that 2007 losses now total 16,000,000 Euros ($20,800,000), and stated that this higher number was due to their parent company having sold its interest in its Formula 1 (''F1'') racing team, and extraordinary financing and consulting costs. Spyker stated in this supplement to its petition that the new financial statement information is in further support of the substantial economic hardship criterion. Both Spyker's original petition and its recently filed supplement to the petition are available in this docket.

Good faith efforts to comply. Spyker stated that when it filed for the original exemption, the C8 vehicle line had no air bag system at all, and that the windshield design does not permit a top-mounted air bag on the passenger side, thereby precluding the use of a low risk deployment system. Spyker indicated that it has spent over 3,500,000 Euros bringing the C8 vehicle line into compliance with all of the high-speed belted and unbelted crash test requirements of the Advanced Air Bag rule by developing an ''interim'' driver air bag system for the C vehicle line. However, it stated that it has not been able to bring the vehicle into compliance with the child out-of-position requirements (S19, S21, and S23), and the 5th percentile adult female out-of-position requirements for the driver seat (S25). Spyker stated that despite efforts to involve numerous potential suppliers, it has not identified any that are willing to work with the company to develop an automatic suppression system for compliance with S19, S21, and S23. Spyker has budgeted an additional 3,500,000 Euros for 2008–2010 to develop, test and build a fully-compliant advanced air bag system for the new C line vehicle. Spyker also indicated that by the time its new D vehicle line is launched, Spyker will have spent 5,500,000 Euros developing for this new line an advanced air bag system fully compliant with FMVSS No. 208.

Spyker further indicated that it plans to re-engineer the C vehicle line for model year 2011, at which time the D line advanced air bag system will be incorporated into the new C line, making the redesigned C line fully compliant with all advanced air bag requirements. Spyker stated that it will use the 30 month extension period, if granted, to develop, test, tool and implement the redesigned model.

Spyker argues that an exemption would be in the public interest. The petitioner put forth several arguments in favor of a finding that the requested exemption is consistent with the public interest and would not have a significant adverse impact on safety. Specifically:

1. Spyker stated that the exempted vehicles will comply with all FMVSSs other than the provisions that are the subject of this extension request.

2. The petitioner stated that an exemption will benefit U.S. employment and U.S. companies because Spyker vehicles are distributed by a U.S. company, Spyker of North America, and are sold and serviced in the U.S. through a network of 17 dealers. Spyker argued that denial of an extension will negatively impact these companies.

3. Spyker argued that if the exemption is not granted, U.S. consumer choice would be harmed and that the agency has long maintained that the National Traffic and Motor Vehicle Safety Act seeks, if possible, to avoid limiting consumer choice.

4. Petitioner argued that given its exotic design and high-performance nature, the C vehicle line is not expected to be used extensively, nor is it expected to carry children with any frequency.

5. Spyker stated that as of the submission date of its application for extension, approximately 60 exempted C line Spykers have been imported into the U.S. and there have been no reports of any air bag-related injuries.

6. Spyker stated that an important safety feature on the C line offers enhanced occupant protection. The petitioner stated that occupants are positioned in a protective ''cell'' because the main chassis structure is built around them.

V. Issuance of Notice of Final Action

We are providing a 30-day comment period. After considering public comments and other available information, we will publish a notice of final action on the application in the **Federal Register**.

Issued on: May 19, 2008.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E8–11699 Filed 5–23–08; 8:45 am]

BILLING CODE 4910–59–P

[3] Only parties with an interest of more than 5% are known and need to register with the Dutch authority for financial markets.

[4] The previous exemption covered these provisions by including S14.

[5] Spyker submitted a supplement to their petition on April 7, 2008, which will be posted in this docket, and which included updated financial information from 2007.

[6] *See* 70 FR 39007 (July 6, 2005).

[7] All dollar values are based on an exchange rate of 1 Euro = $1.30.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 20, 2008.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 26, 2008, to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0004.
Type of Review: Extension.
Title: Schedule of Excess Risks.
Form: FMS–285–A.
Description: Listing of Excess Risks written or assumed by Treasury Certified Companies for compliance with Treasury Regulations to assist in determination of solvency of Certified companies for the benefit of writing Federal surety bonds.
Respondents: Businesses or other for-profit institutions.
Estimated Total Burden Hours: 5,780 hours.

OMB Number: 1510–0047.
Type of Review: Extension.
Title: List of Data (A) and List of Data (B).
Form: TFS–2211.
Description: Information from insurance companies to provide Treasury a basis to determine acceptability of companies applying for a Certificate of Authority to write or reinsure Federal surety bonds or as an Admitted Reinsurer (not on excess risks to U.S.).
Respondents: Businesses or other for-profit institutions.
Estimated Total Burden Hours: 540 hours.

OMB Number: 1510–0061.
Type of Review: Extension.
Title: CMIA Annual Report and Interest Calculation Cost Claims.
Form: FMS–285–A.
Description: Pub. L. 101–453 requires that States and Territories must report interest liabilities for major Federal assistance programs annually. States and Territories may report interest calculation cost claims for compensation of administrative costs.
Respondents: State, Local, or Tribal Governments.
Estimated Total Burden Hours: 22,036 hours.

Clearance Officer: Wesley Powe, (202) 874–7662, Financial Management Service, Room 135, 3700 East West Highway, Hyattsville, MD 20782.
OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert B. Dahl,
Treasury PRA Clearance Officer.

[FR Doc. E8–11681 Filed 5–23–08; 8:45 am]
BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of Entities Pursuant to Executive Order 12978

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of 12 newly-designated entities whose property and interests in property are blocked pursuant to Executive Order 12978 of October 21, 1995, ''Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers.'' In addition, OFAC is publishing changes to the identifying information associated with nine persons previously designated pursuant to Executive Order 12978.

DATES: The designation by the Director of OFAC of the 12 entities identified in this notice pursuant to Executive Order 12978 is effective on May 20, 2008.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: (202) 622–0077.

Background

On October 21, 1995, the President, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), issued Executive Order 12978 (60 Fed. Reg. 54579, October 24, 1995) (the ''Order''). In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of Treasury, in consultation with the Attorney General and Secretary of State, to play a significant role in international narcotics trafficking centered in Colombia; or (3) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to this order; and (4) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to this Order.

On May 20, 2008, the Director of OFAC, in consultation with the Attorney General and Secretary of State, as well as the Secretary of Homeland Security, designated 12 entities whose property and interests in property are blocked pursuant to the Order.

The list of additional designees is as follows:

1. A K DIFUSION S.A. PUBLICIDAD Y MERCADEO, Calle 28N No. 6BN–54, Cali, Colombia; NIT # 900015699–8 (Colombia) [SDNT].
2. A K EDUCAL S.A. EDUCACION CON CALIDAD, Calle 28N No. 6BN–54, Cali, Colombia; NIT # 900015704–7 (Colombia) [SDNT].
3. ADMINISTRACION DE RECURSOS FINANCIEROS E.U. (a.k.a. AFIN E.U.), Calle 20N No. 6AN–19 ofc. 67–68, Cali, Colombia; NIT # 805013294–5 (Colombia) [SDNT].
4. ARTURO QUINONEZ LTDA. (a.k.a. RESTAURANTE SANTA COLOMBIA), Calle 10 No. 46–120, Cali, Colombia; NIT # 900093492–3 (Colombia) [SDNT].
5. B R C S.A. (a.k.a. BARRERA RIOS CAMACHO ADMINISTRACION Y FINANZAS S.A.), Calle 28N No. 6BN–

54, Cali, Colombia; NIT # 900021843–7 (Colombia) [SDNT].

6. COMERCIALIZADORA CGQ LTDA. (a.k.a. CENTROPARTES CALI), Carrera 18 No. 9–24, Cali, Colombia; NIT # 805029062–3 (Colombia) [SDNT].

7. GRUPO INVERSOR PRINCIPE DE VERGARA S.L., Calle Jarilla, 5–Pis 4 B, Madrid 28043, Spain; C.I.F. B84758374 (Spain) [SDNT].

8. LA HOLANDA S.A., Calle 23C No. 3BISN–26, Cali, Colombia; NIT # 805025864–5 (Colombia) [SDNT].

9. PROMOTORES DE BIENES RAICES S.A. (a.k.a. PROMOBIENES S.A.), Calle 20N No. 6AN–19 ofc. 67, Cali, Colombia; NIT # 805001651–1 (Colombia) [SDNT].

10. RIOS JIMENEZ S. EN C.S., Carrera 18 No. 38–35, Bogota, Colombia; NIT # 830007478–1 (Colombia) [SDNT].

11. SERPROVIS S.A. SERVICIOS Y PROVISIONES, Calle 28N No. 6BN–54, Cali, Colombia; NIT # 900023730–2 (Colombia) [SDNT].

12. VALERO Y ASOCIADOS GABINETE JURIDICO S.L., Paseo Alameda, 60, Valencia 46023, Spain; C.I.F. B97393029 (Spain) [SDNT].

In addition, OFAC has made changes to the identifying information associated with the following nine persons previously designated pursuant to the Order:

1. BARRERA RIOS, Alfonso, c/o ALFONSO BARRERA RIOS Y CIA S. EN C.S., Cali, Colombia; c/o APVA S.A., Cali, Colombia; c/o BARRERA RIOS NEGOCIOS INMOBILIARIOS E.U., Cali, Colombia; c/o CECEP EDITORES S.A., Cali, Colombia; c/o CECEP S.A., Cali, Colombia; c/o ENSAMBLADORA COLOMBIANA AUTOMOTRIZ S.A., Barranquilla, Colombia; c/o NEGOCIOS Y CAPITALES S.A., Pereira, Colombia; c/o WORLD LINE SYSTEM S.A., Palmira, Valle, Colombia; Calle 14 Oeste No. 2B1–45 apto. 302E, Cali, Colombia; DOB 08 Dec 1975; POB Cali, Colombia; Cedula No. 79648943 (Colombia); Passport AJ963037 (Colombia) (individual) [SDNT].

2. BARRERA RIOS, Alvaro Enrique, c/o ALFONSO BARRERA RIOS Y CIA. S. EN C.S., Cali, Colombia; c/o ALVARO ENRIQUE BARRERA RIOS Y CIA S. EN C.S., Cali, Colombia; c/o APVA S.A., Cali, Colombia; c/o BARRERA RIOS NEGOCIOS INMOBILIARIOS E.U., Cali, Colombia; c/o CECEP EDITORES S.A., Cali, Colombia; c/o CECEP S.A., Cali, Colombia; c/o COMERCIALIZADORA DE BIENES Y SERVICIOS ADMINISTRATIVOS Y FINANCIEROS S.A., Cali, Colombia; c/o ENSAMBLADORA COLOMBIANA AUTOMOTRIZ S.A., Barranquilla, Colombia; c/o NEGOCIOS Y CAPITALES S.A., Pereira, Colombia; c/o WORLD LINE SYSTEM S.A., Palmira, Valle, Colombia; Carrera 54A No. 5A–21, Cali, Colombia; DOB 05 Dec 1968; POB Cali, Colombia; Cedula No. 16758185 (Colombia); Passport AJ149349 (Colombia) (individual) [SDNT].

3. BARRERA RIOS, Victoria Eugenia, c/o ALFONSO BARRERA RIOS Y CIA. S. EN C.S., Cali, Colombia; c/o APVA S.A., Cali, Colombia; c/o CECEP EDITORES S.A., Cali, Colombia; c/o CECEP S.A., Cali, Colombia; c/o ENSAMBLADORA COLOMBIANA AUTOMOTRIZ S.A., Barranquilla, Colombia; c/o NEGOCIOS Y CAPITALES S.A., Pereira, Colombia; c/o WORLD LINE SYSTEM S.A., Palmira, Valle, Colombia; Transversal 18 No. 127–43 Torre 4 apto. 1201, Bogota, Colombia; DOB 11 Dec 1970; POB Cali, Colombia; Cedula No. 66818996 (Colombia); Passport AI939751 (Colombia) (individual) [SDNT].

4. ESPITIA ORTIZ, Mauricio Arturo (a.k.a. SPITIA, Mauricio), c/o ESVA S.C.S., Cali, Colombia; c/o M S CONSTRUCTORES LTDA., Cali, Colombia; c/o SPITIA VALENCIA LTDA., Cali, Colombia; c/o ARQUITECTOS UNIDOS LTDA., Cali, Colombia; Carrera 25 F No. 7–15 Oeste, Cali, Colombia; Carrera 42 No. 8–36, Cali, Colombia; Spain; DOB 29 Dec 1959; POB Barranquilla, Colombia; Cedula No. 16634827 (Colombia); Passport AJ424421 (Colombia) (individual) [SDNT].

5. QUINONES, Benedicto (a.k.a. QUINONEZ, Benedicto), c/o QUINONES MELO Y CIA. LTDA., Cali, Colombia; DOB 25 Jun 1946; POB Cali, Colombia; Cedula No. 14934266 (Colombia); Passport 14934266 (Colombia) (individual) [SDNT].

6. ROSERO ANGULO, German, Mexico; Calle 40 No. 27–59, Cali, Colombia; DOB 07 Oct 1964; POB Ipiales, Narino, Colombia; Cedula No. 16708846 (Colombia); Passport AF832289 (Colombia) (individual) [SDNT].

7. VALERO JIMENEZ, Alejandro, c/o UNIDAD CARDIOVASCULAR LTDA., Cali, Colombia; Transversal 18 No. 102–42 apto. 401, Bogota, Colombia; 826 SW Canary Terrace, Port St. Lucie, FL 34953; DOB 25 Oct 1967; POB Cali, Colombia; Cedula No. 16746340 (Colombia); Passport P059298 (Colombia) (individual) [SDNT].

8. VALERO JIMENEZ, Luis Hernan, Avenida 4N No. 19N–34, Cali, Colombia; Spain; DOB 22 Sep 1965; Cedula No. 16723237 (Colombia); Passport 16723237 (Colombia) (individual) [SDNT].

9. VALERO SANCHEZ, Francisco Javier, c/o ASESORIAS OCUPACIONALES LTDA., Cali, Colombia; c/o UNIDAD CARDIOVASCULAR LTDA., Cali, Colombia; Cedula No. 2436976 (Colombia) (individual) [SDNT].

The listings now appear as the following:

1. BARRERA RIOS, Alfonso, c/o ALFONSO BARRERA RIOS Y CIA S. EN C.S., Cali, Colombia; c/o APVA S.A., Cali, Colombia; c/o BARRERA RIOS NEGOCIOS INMOBILIARIOS E.U., Cali, Colombia; c/o CECEP EDITORES S.A., Cali, Colombia; c/o CECEP S.A., Cali, Colombia; c/o ENSAMBLADORA COLOMBIANA AUTOMOTRIZ S.A., Barranquilla, Colombia; c/o NEGOCIOS Y CAPITALES S.A., Pereira, Colombia; c/o WORLD LINE SYSTEM S.A., Palmira, Valle, Colombia; Calle 14 Oeste No. 2B1–45 apto. 302E, Cali, Colombia; c/o A K DIFUSION S.A. PUBLICIDAD Y MERCADEO, Cali, Colombia; c/o A K EDUCAL S.A. EDUCACION CON CALIDAD, Cali, Colombia; c/o B R C S.A., Cali, Colombia; c/o SERPROVIS S.A. SERVICIOS Y PROVISIONES, Cali, Colombia; DOB 08 Dec 1975; POB Cali, Colombia; Cedula No. 79648943 (Colombia); Passport AJ963037 (Colombia) (individual) [SDNT].

2. BARRERA RIOS, Alvaro Enrique, c/o ALFONSO BARRERA RIOS Y CIA. S. EN C.S., Cali, Colombia; c/o ALVARO ENRIQUE BARRERA RIOS Y CIA S. EN C.S., Cali, Colombia; c/o APVA S.A., Cali, Colombia; c/o BARRERA RIOS NEGOCIOS INMOBILIARIOS E.U., Cali, Colombia; c/o CECEP EDITORES S.A., Cali, Colombia; c/o CECEP S.A., Cali, Colombia; c/o COMERCIALIZADORA DE BIENES Y SERVICIOS ADMINISTRATIVOS Y FINANCIEROS S.A., Cali, Colombia; c/o ENSAMBLADORA COLOMBIANA AUTOMOTRIZ S.A., Barranquilla, Colombia; c/o NEGOCIOS Y CAPITALES S.A., Pereira, Colombia; c/o WORLD LINE SYSTEM S.A., Palmira, Valle, Colombia; Carrera 54A No. 5A–21, Cali, Colombia; c/o A K DIFUSION S.A. PUBLICIDAD Y MERCADEO, Cali, Colombia; c/o A K EDUCAL S.A. EDUCACION CON CALIDAD, Cali, Colombia; c/o B R C S.A., Cali, Colombia; c/o SERPROVIS S.A. SERVICIOS Y PROVISIONES, Cali, Colombia; DOB 05 Dec 1968; POB Cali, Colombia; Cedula No. 16758185 (Colombia); Passport AJ149349 (Colombia) (individual) [SDNT].

3. BARRERA RIOS, Victoria Eugenia, c/o ALFONSO BARRERA RIOS Y CIA. S. EN C.S., Cali, Colombia; c/o APVA S.A., Cali, Colombia; c/o CECEP EDITORES S.A., Cali, Colombia; c/o CECEP S.A., Cali, Colombia; c/o

ENSAMBLADORA COLOMBIANA AUTOMOTRIZ S.A., Barranquilla, Colombia; c/o NEGOCIOS Y CAPITALES S.A., Pereira, Colombia; c/o WORLD LINE SYSTEM S.A., Palmira, Valle, Colombia; Transversal 18 No. 127–43 Torre 4 apto. 1201, Bogota, Colombia; c/o A K DIFUSION S.A. PUBLICIDAD Y MERCADEO, Cali, Colombia; c/o A K EDUCAL S.A. EDUCACION CON CALIDAD, Cali, Colombia; c/o B R C S.A., Cali, Colombia; c/o RIOS JIMENEZ S. EN C.S., Bogota, Colombia; c/o SERPROVIS S.A. SERVICIOS Y PROVISIONES, Cali, Colombia; DOB 11 Dec 1970; POB Cali, Colombia; Cedula No. 66818996 (Colombia); Passport AI939751 (Colombia) (individual) [SDNT].

4. ESPITIA ORTIZ, Mauricio Arturo (a.k.a. SPITIA, Mauricio), c/o ESVA S.C.S., Cali, Colombia; c/o M S CONSTRUCTORES LTDA., Cali, Colombia; c/o SPITIA VALENCIA LTDA., Cali, Colombia; c/o ARQUITECTOS UNIDOS LTDA., Cali, Colombia; Carrera 25 F No. 7–15 Oeste, Cali, Colombia; Carrera 42 No. 8–36, Cali, Colombia; Spain; c/o GRUPO INVERSOR PRINCIPE DE VERGARA S.L., Madrid, Spain; Calle Ayala 64 3 Iz., Madrid 28001, Spain; DOB 29 Dec 1959; POB Barranquilla, Colombia; Cedula No. 16634827 (Colombia); Passport AJ424421 (Colombia) (individual) [SDNT].

5. QUINONES, Benedicto (a.k.a. QUINONEZ, Benedicto), c/o QUINONES MELO Y CIA. LTDA., Cali, Colombia; c/o ARTURO QUINONEZ LTDA., Cali, Colombia; c/o COMERCIALIZADORA CGQ LTDA., Cali, Colombia; Calle 12A No. 107–25 No. 2, Cali, Colombia; DOB 25 Jun 1946; POB Cali, Colombia; Cedula No. 14934266 (Colombia); Passport 14934266 (Colombia) (individual) [SDNT].

6. ROSERO ANGULO, German, Mexico; Calle 40 No. 27–59, Cali, Colombia; c/o LA HOLANDA S.A., Cali, Colombia; DOB 07 Oct 1964; POB Ipiales, Narino, Colombia; Cedula No. 16708846 (Colombia); Passport AF832289 (Colombia) (individual) [SDNT].

7. VALERO JIMENEZ, Alejandro, c/o UNIDAD CARDIOVASCULAR LTDA., Cali, Colombia; Transversal 18 No. 102–42 apto. 401, Bogota, Colombia; 826 SW Canary Terrace, Port St. Lucie, FL 34953; c/o ADMINISTRACION DE RECURSOS FINANCIEROS E.U., Cali, Colombia; c/o PROMOTORES DE BIENES RAICES S.A., Cali, Colombia; DOB 25 Oct 1967; POB Cali, Colombia; Cedula No. 16746340 (Colombia); Passport P059298 (Colombia) (individual) [SDNT].

8. VALERO JIMENEZ, Luis Hernan, Avenida 4N No. 19N–34, Cali, Colombia; Spain; c/o VALERO Y ASOCIADOS GABINETE JURIDICO S.L., Valencia, Spain; Paseo Murviedro Monte Picayo, No. 14, Pucol, Valencia, Spain; DOB 22 Sep 1965; Cedula No. 16723237 (Colombia); Passport 16723237 (Colombia) (individual) [SDNT].

9. VALERO SANCHEZ, Francisco Javier, c/o ASESORIAS OCUPACIONALES LTDA., Cali, Colombia; c/o UNIDAD CARDIOVASCULAR LTDA., Cali, Colombia; c/o PROMOTORES DE BIENES RAICES S.A., Cali, Colombia; Cedula No. 2436976 (Colombia) (individual) [SDNT].

Dated: May 20, 2008.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E8–11679 Filed 5–23–08; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Federally Funded Research and Development Center

AGENCY: Internal Revenue Service (IRS), Treasury. National Office Procurement.

ACTION: Notice.

SUMMARY: The Internal Revenue Service (IRS) and The Department of Veterans Affairs (VA) executed a Memorandum of Understanding (MOU) on February 7, 2008 to designate VA as a Co-Sponsor of the Federally Funded Research and Development Center (FFRDC), titled The Center for Enterprise Modernization (CEM). CEM is operated by The MITRE Corporation (MITRE). IRS remains the primary sponsor of this enterprise systems engineering and integration FFRDC; VA is a Co-Sponsor.

VA has determined that it requires an FFRDC mission partner to assist in the achievement of its strategic and business enterprise modernization goals and the IRS FFRDC meets this need.

DATES: The Agency must receive comments on or before June 26, 2008.

ADDRESSES: Comments may be submitted by one of the following methods: Mail to: 6009 Oxon Hill Road, Suite 500, Oxon Hill, MD, attn: Carol Gentry, subject: Co-Sponsor Comments, or e-mail to *Carol.A.Gentry@irs.gov,* subject: Co-Sponsor Comments.

FOR FURTHER INFORMATION CONTACT: For further information contact Carol Gentry at *Carol.A.Gentry@irs.gov.*

Carol A. Gentry,

Contracting Officer, Internal Revenue Service.

[FR Doc. E8–11654 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Ad Hoc IRS Forms and Publications/Language Services Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open Meeting of the Ad Hoc IRS Forms and Publications/Language Services Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, July 1, 2008.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227 or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that an open meeting of the Ad Hoc IRS Forms and Publications/Language Services Issue Committee of the Taxpayer Advocacy Panel will be held Tuesday, July 1, 2008, at 2:00 p.m. Eastern Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7977, or you can post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: May 15, 2008.

Richard Morris,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–11683 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 1 Taxpayer Advocacy Panel (Including the States of New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont and Maine)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Area 1 Taxpayer Advocacy Panel will be conducted via telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, July 15, 2008.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 1 Taxpayer Advocacy Panel will be held Tuesday, July 15, 2008, at 9 a.m., Eastern Time via a telephone conference call. For more information or to confirm attendance, notification of intent to attend the meeting must be made with Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085. If you would like to have the TAP consider a written statement, please write Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or you can post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: May 15, 2008.

Richard Morris,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–11651 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 2 Taxpayer Advocacy Panel (Including the States of Delaware, North Carolina, South Carolina, New Jersey, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted via telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, July 16, 2008.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 2 Taxpayer Advocacy Panel will be held Wednesday, July 16, 2008, at 2:30 p.m. Eastern Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: May 15, 2008.

Richard Morris,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–11656 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 3 Taxpayer Advocacy Panel (Including the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and the Territory of Puerto Rico)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Area 3 Taxpayer Advocacy Panel will be conducted via telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Monday, July 21, 2008.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 3 Taxpayer Advocacy Panel will be held Monday, July 21, 2008, at 12:30 p.m. Eastern Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: May 15, 2008.

Richard Morris,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–11655 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 4 Taxpayer Advocacy Panel (Including the States of Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, and Wisconsin)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 4 Taxpayer Advocacy Panel will be conducted via telephone conference call. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, July 15, 2008.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 4 Taxpayer Advocacy Panel will be held Tuesday, July 15, 2008, at 1 p.m., Central Time via a telephone conference call. You can submit written comments to the panel by faxing the comments to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI

53203–2221, or you can contact us at *http://www.improveirs.org*. Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 231–2360 for dial-in information.

The agenda will include the following: Various IRS issues.

Dated: May 15, 2008.

Richard Morris,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–11663 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 5 Taxpayer Advocacy Panel (Including the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Texas)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted via a telephone conference call. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, July 8, 2008.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 5 Taxpayer Advocacy Panel will be held Tuesday, July 8, 2008, at 9:30 a.m. Central Time via a telephone conference call. You can submit written comments to the panel by faxing to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org.* Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 231–2360 for dial-in information.

The agenda will include the following: Various IRS issues.

Dated: May 15, 2008.

Richard Morris,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–11680 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 6 Taxpayer Advocacy Panel (Including the States of Arizona, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction—Notice of Meeting.

SUMMARY: This is to correct the **Federal Register** notice that was posted on May 9, 2008. The correct date and time for this meeting is Tuesday, June 10, 2008, from 10 a.m. Pacific Time to 11:30 a.m. Pacific Time. An open meeting of the Area 6 committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Tuesday, June 10, 2008.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 6 Taxpayer Advocacy Panel will be held Tuesday, June 10, 2008, from 10 a.m. Pacific Time to 11:30 a.m. Pacific Time, via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096, or you can contact us at *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: May 15, 2008.

Richard Morris,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–11661 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 6 Taxpayer Advocacy Panel (Including the States of Arizona, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Area 6 committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Tuesday, July 1, 2008.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 6 Taxpayer Advocacy Panel will be held Tuesday, July 1, 2008, from 1 p.m. Pacific Time to 2:30 p.m. Pacific Time, via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096, or you can contact us at *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: May 15, 2008.

Richard Morris,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–11678 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 7 Taxpayer Advocacy Panel (Including the States of Alaska, California, Hawaii, and Nevada)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Area 7 committee of the Taxpayer Advocacy Panel will be conducted via telephone conference call. The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, July 16, 2008.

FOR FURTHER INFORMATION CONTACT: Janice Spinks at 1–888–912–1227 or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 7 Taxpayer Advocacy Panel will be held Wednesday, July 16, 2008, at 2 p.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Janice Spinks, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Janice Spinks. Miss Spinks can be reached at 1–888–912–1227 or 206–220–6096, or you can contact us at *http://www.improveirs.org*.

The agenda will include the following: Various IRS issues.

Dated: May 15, 2008.

Richard Morris,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–11682 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Small Business/Self Employed—Taxpayer Burden Reduction Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday July 10, 2008.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or (718) 488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Small Business/Self Employed—Taxpayer Burden Reduction Issue Committee will be held Thursday, July 10, 2008, at 2 p.m. Eastern Time via a telephone conference call. You can submit written comments to the panel by faxing to (718) 488–2062, or by mail to Taxpayer Advocacy Panel, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY 11201, or you can contact us at *http://www.improveirs.org.* Public comments will also be welcome during the meeting. Please contact Marisa Knispel at 1–888–912–1227 or (718) 488–3557 for additional information.

The agenda will include the following: Various IRS Issues.

Dated: May 15, 2008.

Richard Morris,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–11685 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Group to the Internal Revenue Service; Tax Exempt and Government Entities Division (TE/GE); Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Advisory Committee on Tax Exempt and Government Entities (ACT) will hold a public meeting on Wednesday, June 11, 2008.

FOR FURTHER INFORMATION CONTACT: Steven J. Pyrek, Director, TE/GE Communications and Liaison; 1111 Constitution Ave., NW., SE:T:CL—Penn Bldg.; Washington, DC 20224. Telephone: 202–283–9966 (not a toll-free number). E-mail address: *Steve.J.Pyrek@irs.gov*.

SUPPLEMENTARY INFORMATION: By notice herein given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the ACT will be held on Wednesday, June 11, 2008, from 11 a.m. to 2 p.m., at the Internal Revenue Service, 1111 Constitution Ave., NW., Room 3313, Washington, DC. Issues to be discussed relate to Employee Plans, Exempt Organizations, and Government Entities.

Reports From Six ACT Subgroups Cover the Following Topics

- Employee Plans: Improving the Employee Plans Compliance Resolution System.
- Exempt Organizations: The Appropriate Role of the IRS With Respect to Tax-Exempt Organization Good Governance Issues.
- Tax-Exempt Bonds: The Streamlined Closing Agreement for Tax-Exempt Bonds.
- Employee Plans/Federal, State and Local Governments: Protecting Plan Benefits: Improving Governmental Defined Contribution Plan Compliance.
- Federal, State and Local Governments: Tax Treatment of Cellular Telephones and Internet-Provider Allowances.
- Indian Tribal Governments: Governmental Relationship and Communication Between the IRS and Indian Tribal Governments.

Last minute agenda changes may preclude advance notice. Due to limited seating and security requirements, attendees must call Cynthia PhillipsGrady to confirm their attendance.

Ms. PhillipsGrady can be reached at (202) 283–9954. Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for security clearance. Picture identification must be presented. Please use the main entrance at 1111 Constitution Ave., NW., to enter the building.

Should you wish the ACT to consider a written statement, please call (202) 283–9966, or write to: Internal Revenue Service, 1111 Constitution Ave., NW., SE:T:CL-Penn Bldg.; Washington, DC 20224, or e-mail *Steve.J.Pyrek@irs.gov*.

Dated: May 20, 2008.

Steven J. Pyrek,

Designated Federal Official, Tax Exempt and Government Entities Division.

[FR Doc. E8–11797 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Assistance (VITA) Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, July 8, 2008.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or (718) 488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be held Tuesday, July 8, 2008, at 2 p.m. Eastern Time via a telephone conference call. You can submit written comments to the panel by faxing to (718) 488–2062, or by mail to Taxpayer Advocacy Panel, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY 11201, or you can contact us at *http://www.improveirs.org.* Public comments will also be welcome during the meeting. Please contact Marisa Knispel at 1–888–912–1227 or (718) 488–3557 for additional information.

The agenda will include the following: Various VITA Issues.

Dated: May 15, 2008.

Richard Morris,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–11660 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be conducted via telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, July 9, 2008.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be held Wednesday, July 9, 2008, from 1 to 2 p.m. Eastern Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. For information or to confirm attendance, notification of intent to attend the meeting must be made with Audrey Y. Jenkins. Ms. Jenkins may be reached at 1–888–912–1227 or (718) 488–2085. Send written comments to Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201 or post comments to the Web site: *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made in advance.

The agenda will include various IRS issues.

Dated: May 15, 2008.

Richard Morris,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–11684 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted via telephone conference call. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, July 16, 2008.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Wednesday, July 16, 2008, at 12:30 p.m. Eastern Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: May 15, 2008.

Richard Morris,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–11658 Filed 5–23–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Lending and Investment

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection request (ICR) described below has been submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before June 26, 2008. A copy of this ICR, with applicable supporting documentation, can be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain.*

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, Attention: Desk Officer for OTS, U.S. Office of Management and Budget, 725–17th Street, NW., Room 10235, Washington, DC 20503, or by fax to

(202) 395–6974; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: For further information or to obtain a copy of the submission to OMB, please contact Ira L. Mills at *ira.mills@ots.treas.gov*, (202) 906–6531, or facsimile number (202) 906–6518, Regulations and Litigation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Lending and Investment.

OMB Number: 1550–0078.

Form Numbers: N/A.

Description: OTS uses the information during the examination process to ensure that savings associations are complying with applicable rules and regulations as well as engaging in safe and sound lending practices.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 830.

Estimated Number of Responses: 783,230.

Estimated Frequency of Response: On occasion.

Estimated Total Burden: 296,100 hours.

Clearance Officer: Ira L. Mills, (202) 906–6531, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Dated: May 21, 2008.

Deborah Dakin,

Senior Deputy Chief Counsel, Regulations and Legislation Division.

[FR Doc. E8–11771 Filed 5–23–08; 8:45 am]

BILLING CODE 6720–01–P

Corrections

Federal Register

Vol. 73, No. 102

Tuesday, May 27, 2008

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 27 and 29

[Docket No.: FAA–2006–25414; Amendment Nos. 27–44 and 29–51]

RIN 2120–AH87

Performance and Handling Qualities Requirements for Rotorcraft

Correction

In rule document E8–3817 beginning on page 10987 in the issue of Friday, February 29, 2008, make the following correction:

On page 10988, in the second column, in the footnotes section, ''aircraft and its occupants, both direct and consequential, caused or contributed to by one or more failures, considering relevant adverse operations or environmental conditions.' ARP4761 further states that, 'for each failure condition, the analyst must assign probability requirements,' In existing'' should read:

[1] 49 FR 44433 and 49 44436 respectively, November 6, 1984.

[2] 72 FR 142, Docket Number: FAA–2006–25414.

[FR Doc. Z8–3817 Filed 5–23–08; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Ultrafine Grained Titanium for Near-Net Shape Forging—a Pathway to Titanium Market Expansion

Correction

In notice document E8–10139 appearing on page 26415, in the issue of Friday, May 9, 2008, make the following correction:

On page 26415, in the second column, in the second paragragh, in the third line, ''ATI AIlvac'' should read ''ATI Allvac''.

[FR Doc. Z8–10139 Filed 5–23–08; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Network Centric Operations Industry Consortium, Inc.

Correction

In notice document E8–10136 beginning on page 26414, in the issue of Friday, May 9, 2008, make the following correction:

On page 26414, in the third column, in the first paragraph, in the 17th line, ''AEG SPIN S.A.'' should read ''ABG SPIN S.A.''.

[FR Doc. Z8–10136 Filed 5–23–08; 8:45 am]

BILLING CODE 1505–01–D

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LIST OF PUBLIC LAWS

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www.gpoaccess.gov/plaws/index.html. Some laws may not yet be available.

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100–169	(869–062–00063–4)	49.00	Apr. 1, 2007
170–199	(869–062–00064–2)	50.00	Apr. 1, 2007
200–299	(869–062–00065–1)	17.00	Apr. 1, 2007
300–499	(869–062–00066–9)	30.00	Apr. 1, 2007
500–599	(869–062–00067–7)	47.00	Apr. 1, 2007
600–799	(869–062–00068–5)	17.00	Apr. 1, 2007
800–1299	(869–062–00069–3)	60.00	Apr. 1, 2007
1300–End	(869–062–00070–7)	25.00	Apr. 1, 2007
22 Parts:			
1–299	(869–062–00071–5)	63.00	Apr. 1, 2007
300–End	(869–062–00072–3)	45.00	Apr. 1, 2007
23	(869–062–00073–7)	45.00	Apr. 1, 2007
24 Parts:			
0–199	(869–064–00074–2)	63.00	Apr. 1, 2008
200–499	(869–062–00075–8)	50.00	Apr. 1, 2007
500–699	(869–062–00076–6)	30.00	Apr. 1, 2007
700–1699	(869–062–00077–4)	61.00	Apr. 1, 2007
1700–End	(869–062–00078–2)	30.00	Apr. 1, 2007
25	(869–062–00079–1)	64.00	Apr. 1, 2007
26 Parts:			
§§ 1.0–1–1.60	(869–062–00080–4)	49.00	Apr. 1, 2007
§§ 1.61–1.169	(869–062–00081–2)	63.00	Apr. 1, 2007
§§ 1.170–1.300	(869–062–00082–1)	60.00	Apr. 1, 2007
§§ 1.301–1.400	(869–062–00083–9)	47.00	Apr. 1, 2007
§§ 1.401–1.440	(869–062–00084–7)	56.00	Apr. 1, 2007
§§ 1.441–1.500	(869–062–00085–5)	58.00	Apr. 1, 2007
§§ 1.501–1.640	(869–064–00086–6)	52.00	Apr. 1, 2008
§§ 1.641–1.850	(869–062–00087–1)	61.00	Apr. 1, 2007
§§ 1.851–1.907	(869–062–00088–0)	61.00	Apr. 1, 2007
§§ 1.908–1.1000	(869–062–00089–8)	60.00	Apr. 1, 2007
§§ 1.1001–1.1400	(869–062–00090–1)	61.00	Apr. 1, 2007
§§ 1.1401–1.1550	(869–064–00091–2)	61.00	Apr. 1, 2008
§§ 1.1551–End	(869–062–00092–8)	50.00	Apr. 1, 2007
2–29	(869–062–00093–6)	60.00	Apr. 1, 2007
30–39	(869–062–00094–4)	41.00	Apr. 1, 2007
40–49	(869–062–00095–2)	28.00	[6] Apr. 1, 2007
50–299	(869–062–00096–1)	42.00	Apr. 1, 2007

Title	Stock Number	Price	Revision Date
300–499	(869–062–00097–9)	61.00	Apr. 1, 2007
500–599	(869–062–00098–7)	12.00	[5] Apr. 1, 2007
600–End	(869–062–00099–5)	17.00	Apr. 1, 2007
27 Parts:			
1–39	(869–062–00100–2)	64.00	Apr. 1, 2007
40–399	(869–062–00101–1)	64.00	Apr. 1, 2007
400–End	(869–062–00102–9)	18.00	Apr. 1, 2007
28 Parts:			
0–42	(869–062–00103–7)	61.00	July 1, 2007
43–End	(869–062–00104–5)	60.00	July 1, 2007
29 Parts:			
0–99	(869–062–00105–3)	50.00	[7] July 1, 2007
100–499	(869–062–00106–1)	23.00	July 1, 2007
500–899	(869–062–00107–0)	61.00	[7] July 1, 2007
900–1899	(869–062–00108–8)	36.00	July 1, 2007
1900–1910 (§§ 1900 to 1910.999)	(869–062–00109–6)	61.00	July 1, 2007
1910 (§§ 1910.1000 to end)	(869–062–00110–0)	46.00	July 1, 2007
1911–1925	(869–062–00111–8)	30.00	July 1, 2007
1926	(869–062–00112–6)	50.00	July 1, 2007
1927–End	(869–062–00113–4)	62.00	July 1, 2007
30 Parts:			
1–199	(869–062–00114–2)	57.00	July 1, 2007
200–699	(869–062–00115–1)	50.00	July 1, 2007
700–End	(869–062–00116–9)	58.00	July 1, 2007
31 Parts:			
0–199	(869–062–00117–7)	41.00	July 1, 2007
200–499	(869–062–00118–5)	46.00	July 1, 2007
500–End	(869–062–00119–3)	62.00	July 1, 2007
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–062–00120–7)	61.00	July 1, 2007
191–399	(869–062–00121–5)	63.00	July 1, 2007
400–629	(869–062–00122–3)	61.00	July 1, 2007
630–699	(869–062–00123–1)	37.00	July 1, 2007
700–799	(869–062–00124–0)	46.00	July 1, 2007
800–End	(869–062–00125–8)	47.00	July 1, 2007
33 Parts:			
1–124	(869–062–00126–6)	57.00	July 1, 2007
125–199	(869–062–00127–4)	61.00	July 1, 2007
200–End	(869–062–00128–2)	57.00	July 1, 2007
34 Parts:			
1–299	(869–062–00129–1)	50.00	July 1, 2007
300–399	(869–062–00130–4)	40.00	July 1, 2007
400–End & 35	(869–062–00131–2)	61.00	July 1, 2007
36 Parts:			
1–199	(869–062–00132–1)	37.00	July 1, 2007
200–299	(869–062–00133–9)	37.00	July 1, 2007
300–End	(869–062–00134–7)	61.00	July 1, 2007
37	(869–062–00135–5)	58.00	July 1, 2007
38 Parts:			
0–17	(869–062–00136–3)	60.00	July 1, 2007
18–End	(869–062–00137–1)	62.00	July 1, 2007
39	(869–062–00138–0)	42.00	July 1, 2007
40 Parts:			
1–49	(869–062–00139–8)	60.00	July 1, 2007
50–51	(869–062–00140–1)	45.00	July 1, 2007
52 (52.01–52.1018)	(869–062–00141–0)	60.00	July 1, 2007
52 (52.1019–End)	(869–062–00142–8)	64.00	July 1, 2007
53–59	(869–062–00143–6)	31.00	July 1, 2007
60 (60.1–End)	(869–062–00144–4)	58.00	July 1, 2007
60 (Apps)	(869–062–00145–2)	57.00	July 1, 2007
61–62	(869–062–00146–1)	45.00	July 1, 2007
63 (63.1–63.599)	(869–062–00147–9)	58.00	July 1, 2007
63 (63.600–63.1199)	(869–062–00148–7)	50.00	July 1, 2007
63 (63.1200–63.1439)	(869–062–00149–5)	50.00	July 1, 2007
63 (63.1440–63.6175)	(869–062–00150–9)	32.00	July 1, 2007
63 (63.6580–63.8830)	(869–062–00151–7)	32.00	July 1, 2007
63 (63.8980–End)	(869–062–00152–5)	35.00	July 1, 2007
64–71	(869–062–00153–3)	29.00	July 1, 2007
72–80	(869–062–00154–1)	62.00	July 1, 2007
81–84	(869–062–00155–0)	50.00	July 1, 2007
85–86 (85–86.599–99)	(869–062–00156–8)	61.00	July 1, 2007
86 (86.600–1–End)	(869–062–00157–6)	61.00	July 1, 2007
87–99	(869–062–00158–4)	60.00	July 1, 2007
100–135	(869–062–00159–2)	45.00	July 1, 2007
136–149	(869–062–00160–6)	61.00	July 1, 2007
150–189	(869–062–00161–4)	50.00	July 1, 2007
190–259	(869–062–00162–2)	39.00	[7] July 1, 2007
260–265	(869–062–00163–1)	50.00	July 1, 2007
266–299	(869–062–00164–9)	50.00	July 1, 2007
300–399	(869–062–00165–7)	42.00	July 1, 2007
400–424	(869–062–00166–5)	56.00	[7] July 1, 2007
425–699	(869–062–00167–3)	61.00	July 1, 2007
700–789	(869–062–00168–1)	61.00	July 1, 2007
790–End	(869–062–00169–0)	61.00	July 1, 2007
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–062–00170–3)	24.00	July 1, 2007
101	(869–062–00171–1)	21.00	July 1, 2007
102–200	(869–062–00172–0)	56.00	July 1, 2007
201–End	(869–062–00173–8)	24.00	July 1, 2007
42 Parts:			
1–399	(869–062–00174–6)	61.00	Oct. 1, 2007
400–413	(869–062–00175–4)	32.00	Oct. 1, 2007
414–429	(869–062–00176–2)	32.00	Oct. 1, 2007
430–End	(869–062–00177–1)	64.00	Oct. 1, 2007
43 Parts:			
1–999	(869–062–00178–9)	56.00	Oct. 1, 2007
1000–end	(869–062–00179–7)	62.00	Oct. 1, 2007
44	(869–062–00180–1)	50.00	Oct. 1, 2007
45 Parts:			
1–199	(869–062–00181–9)	60.00	Oct. 1, 2007
200–499	(869–060–00182–7)	34.00	[9] Oct. 1, 2007
500–1199	(869–062–00183–5)	56.00	Oct. 1, 2007
1200–End	(869–062–00184–3)	61.00	Oct. 1, 2007
46 Parts:			
1–40	(869–062–00185–1)	46.00	Oct. 1, 2007
41–69	(869–062–00186–0)	39.00	Oct. 1, 2007
70–89	(869–062–00187–8)	14.00	Oct. 1, 2007
90–139	(869–062–00188–6)	44.00	Oct. 1, 2007
140–155	(869–062–00189–4)	25.00	Oct. 1, 2007
156–165	(869–062–00190–8)	34.00	Oct. 1, 2007
166–199	(869–062–00191–6)	46.00	Oct. 1, 2007
200–499	(869–062–00192–4)	40.00	Oct. 1, 2007
500–End	(869–062–00193–2)	25.00	Oct. 1, 2007
47 Parts:			
0–19	(869–062–00194–1)	61.00	Oct. 1, 2007
20–39	(869–062–00195–9)	46.00	Oct. 1, 2007
40–69	(869–062–00196–7)	40.00	Oct. 1, 2007
70–79	(869–062–00197–5)	61.00	Oct. 1, 2007
80–End	(869–062–00198–3)	61.00	Oct. 1, 2007
48 Chapters:			
1 (Parts 1–51)	(869–062–00199–1)	63.00	Oct. 1, 2007
1 (Parts 52–99)	(869–062–00200–9)	49.00	Oct. 1, 2007
2 (Parts 201–299)	(869–062–00201–7)	50.00	Oct. 1, 2007
3–6	(869–062–00202–5)	34.00	Oct. 1, 2007

Title	Stock Number	Price	Revision Date
7–14	(869–062–00203–3)	56.00	Oct. 1, 2007
15–28	(869–062–00204–1)	47.00	Oct. 1, 2007
29–End	(869–062–00205–0)	47.00	Oct. 1, 2007
49 Parts:			
1–99	(869–062–00206–8)	60.00	Oct. 1, 2007
100–185	(869–062–00207–6)	63.00	Oct. 1, 2007
186–199	(869–062–00208–4)	23.00	Oct. 1, 2007
200–299	(869–062–00208–1)	32.00	Oct. 1, 2007
300–399	(869–062–00210–6)	32.00	Oct. 1, 2007
400–599	(869–062–00210–3)	64.00	Oct. 1, 2007
600–999	(869–062–00212–2)	19.00	Oct. 1, 2007
1000–1199	(869–062–00213–1)	28.00	Oct. 1, 2007
1200–End	(869–062–00214–9)	34.00	Oct. 1, 2007
50 Parts:			
1–16	(869–062–00215–7)	11.00	Oct. 1, 2007
17.1–17.95(b)	(869–062–00216–5)	32.00	Oct. 1, 2007
17.95(c)–end	(869–062–00217–3)	32.00	Oct. 1, 2007
17.96–17.99(h)	(869–062–00218–1)	61.00	Oct. 1, 2007
17.99(i)–end and 17.100–end	(869–062–00219–0)	47.00	[8] Oct. 1, 2007
18–199	(869–062–00226–3)	50.00	Oct. 1, 2007
200–599	(869–062–00221–1)	45.00	Oct. 1, 2007
600–659	(869–062–00222–0)	31.00	Oct. 1, 2007
660–End	(869–062–00223–8)	31.00	Oct. 1, 2007
CFR Index and Findings Aids	(869–062–00050–2)	62.00	Jan. 1, 2007
Complete 2007 CFR set		1,499.00	2008
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Subscription (mailed as issued)		406.00	2008
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Complete set (one-time mailing)		332.00	2006

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2007. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2007. The CFR volume issued as of October 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2006, through October 1, 2007. The CFR volume issued as of October 1, 2006 should be retained.